

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
725 EATERY CORP., etc., *et ano.*, :

Plaintiffs, :

- against - :

Civil Action No.
02 CV 4431 (WHP)

THE CITY OF NEW YORK, et al., :

Defendants. :

-----X
59 MURRAY ENTERPRISES INC., etc., *et al.*, :

Plaintiffs, :

- against - :

Civil Action No.
02 CV 4432 (WHP)

THE CITY OF NEW YORK, et al., :

Defendants. :

-----X
CLUB AT 60TH STREET, INC., etc., *et al.*, :

Plaintiffs, :

- against - :

Civil Action No.
02 CV 8333 (WHP)

THE CITY OF NEW YORK, :

Defendant. :

-----X

336 LLC., etc., *et al.*, :

Plaintiffs, :

- against - :

Civil Action No.
18 CV 3732 (WHP)

THE CITY OF NEW YORK, :

Defendant. :

-----X

**NOTICE OF FILING OF PLAINTIFFS' JOINT APPENDIX VOLUME 1
IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

PLEASE TAKE NOTICE, that Plaintiffs hereby file the within Volume 1 of
Plaintiffs' Joint Appendix in the above-captioned actions.

Dated: New York, New York
November 21, 2018

Respectfully,

DANIEL A. SILVER
SILVER & SILVER
One Liberty Square
New Britain, Connecticut 06050-0698
(860) 225-3518

- and -

JENNIFER KINSLEY
Kinsley Law Office
Post Office Box 19478
Cincinnati, Ohio 45219
(513) 708-2595

Attorneys for Plaintiffs
725 Eatery Corp., etc., et ano.

By: s/Daniel A. Silver
Daniel A. Silver

EDWARD S. RUDOFISKY
ZANE and RUDOFISKY
601 West 26th Street, # 1315
New York, New York 10001
(212) 245-2222

Attorneys for Plaintiffs
59 Murray Enterprises, Inc., etc.
et al.

By: s/Edward S. Rudofsky
Edward S. Rudofsky

JOHN H. WESTON
G. RANDALL GARROU
WESTON, GARROU & MOONEY
12121 Wilshire Boulevard, Suite 525
Los Angeles, CA 90025-1176
(310) 442-0072

- and -

ALAN M. ABRAMSON
ABRAMSON & MORAK
35 Worth Street
New York, New York 10013
(212) 226-7098

Attorneys for
Club At 60th Street, Inc., etc., et al.

By: s/John Weston
John Weston

ERICA DUBNO
Fahringer & Dubno
767 Third Avenue, Suite 3600
New York, New York
(212) 319-5351

Attorneys for Plaintiffs
336 LLC, etc., et al.

By: s/Erica T. Dubno
Erica T. Dubno

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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18 CV 3732 (WHP)

PLAINTIFFS' JOINT APPENDIX
(VOL. 1 of 17; pp. 0001-0030)

Per the Court's Order of November 7, 2018, Plaintiffs in each of the four above-entitled actions hereby submit their unitary Joint Appendix consisting exclusively of evidentiary documents upon which some or all of the Plaintiffs may choose to rely. The inclusion of documents in this Joint Appendix does not automatically signify an endorsement or promotion of any of these documents by any individual Plaintiff or group of Plaintiffs. That will depend on specific adoption of any of these documents by any Plaintiffs or Group of Plaintiffs in documents they may file with the Court.

The reference below to the "Club Plaintiffs" refers to all the Plaintiffs in Action Nos. 02 CV 4431, 02 CV 4432 and 02 CV 8333. The reference below to the "Bookstore Plaintiffs" refers to all the Plaintiffs in Action No. 18 CV 3732.

TABLE OF CONTENTS

<u>Tab No.</u>	<u>Description of Document</u>	<u>Joint Appendix Starting Page #</u>
	<u>DOCUMENTS SUBMITTED BY CLUB PLAINTIFFS</u>	
	VOLUME 1 (pp. 0001--0030)	
	<u>CLUB PLAINTIFFS' EXPERT DECLARATIONS</u>	
A	Declaration of Michael Berzak Regarding Adult Business Sites in Support of Plaintiffs' Motion for	0001

	Preliminary Injunction	
	<i>Exhibit 1: Sequential Maps of Adult Business Sites in Manhattan, Prepared by Berzak Associates</i>	0019
	VOLUME 2 (pp. 0031--0038)	
	<i>Exhibit 2: Sequential Maps of Adult Business Sites in Queens, Prepared by Berzak Associates</i>	0031
	<i>Exhibit 3: Sequential Maps of Adult Business Sites in the Bronx, Prepared by Berzak Associates</i>	0035
	VOLUME 3 (pp. 0039--0046)	
	<i>Exhibit 4: Sequential Maps of Adult Business Sites in Brooklyn, Prepared by Berzak Associates</i>	0039
	<i>Exhibit 5: Sequential Maps of Adult Business Sites in Staten Island, Prepared by Berzak Associates</i>	0043
	VOLUME 4 (pp. 0047--0338)	
	<i>Exhibit 6: Relevant Portions of AZR § 12-10 (definitions), § 32-01 (commercial zone restrictions on adult uses) and § 42-01 (manufacturing zone restrictions on adult uses)</i>	0047
	<i>Exhibit 7: 1 RCNY § 9000-01</i>	0059
	<i>Exhibit 8: DOB Operations Policy and Procedure Notice No. 17/95</i>	0061
	<i>Exhibit 9: DOB Operations Policy and Procedure Notice No. 6/96</i>	0065
	<i>Exhibit 10: DOB Operations Policy and Procedure Notice No. 7/96</i>	0074

	<i>Exhibit 11: DOB Operations Policy and Procedure Notice No. 8/96</i>	0077
	<i>Exhibit 12: DOB Operations Policy and Procedure Notice No. 4/98</i>	0080
	<i>Exhibit 13: DOB Operations Policy and Procedure Notice No. 6/98</i>	0083
	<i>Exhibit 14: DOB Operations Policy and Procedure Notice No. 7/02</i>	0087
	<i>Exhibit 15: Online DOB handbook published in 2016 entitled “Adult Establishment Applications”</i>	0091
	<i>Exhibit 16: City-generated Map Showing the Gowanus Canal Areas Which are Under Consideration for Zoning Changes Allowing Residential and Mixed Uses</i>	0103
B	Declaration of Michael Berzak in Support of Permitting Issues Presented in Plaintiffs’ Motion for Preliminary Injunction	0105
	<i>Exhibit 1: Curriculum Vitae</i>	0124
	<i>Exhibit 2: NYCAC Title 27 Subchapter 1, Article 10 (Permits)</i>	0126
	<i>Exhibit 3: 1 RCNY § 9000-01</i>	0129
	<i>Exhibit 4: NYCAC § 27-217</i>	0131
	<i>Exhibit 5: NYCAC Title 27 Subchapter 1, Article 9 (Approval of Plans)</i>	0133
	<i>Exhibit 6: Relevant Portions of NYCAC Title 27 Subchapter 1, Article 19 (Issuance of Permits)</i>	0137
	<i>Exhibit 7: DOB’s Buildings Bulletin 2016-010</i>	0140
	<i>Exhibit 8: OPPN # 7/02</i>	0145

	<i>Exhibit 9: DOB Code Note (Adult Establishment Applications)</i>	0149
C	Declaration of Hugh Kelly in Support of Plaintiffs' Motion for Preliminary Injunction	0161
D	Affidavit of Lance Freeman in Support of Plaintiffs' Motion for Preliminary Injunction	0212
	<u>CLUB CLIENTS' DECLARATIONS</u>	
E	Declaration of David M. Talla in Support of Plaintiffs' Motion for Preliminary Injunction	0227
F	Declaration of Keith Warech in Support of Plaintiffs' Motion for Preliminary Injunction	0248
G	Declaration of Anthony Capeci in Support of Plaintiffs' Motion for Preliminary Injunction	0262
H	Declaration of Barry Lipsitz in Support of Plaintiffs' Motion for Preliminary Injunction	0265
I	Declaration of Anthony D'Amico in Support of Plaintiffs' Motion for Preliminary Injunction	0283
J	Declaration of Maurice Kavanagh in Support of Plaintiffs' Motion for Preliminary Injunction	0297
	<u>OTHER ITEMS</u>	
K	Declaration of Edward Rudofsky in Support of Plaintiffs' Motion for Preliminary Injunction Regarding Legislative History and Related Matters	0312
L	Declaration of Edward S. Rudofsky in Support of Plaintiffs' Motion for Preliminary Injunction Regarding the Status of Veil NYC and Headquarters n/k/a Rosewood Theater	0335
	VOLUME 5 (pp. 0339--0519)	

M	Club Plaintiffs' Request To Take Judicial Notice	0339
	<i>Exhibit 1:</i> NYC Council Resolution 1322-1995 ("1995 Ordinance")	0348
	<i>Exhibit 2:</i> NYC Council Resolution 0208-1998 (regarding signage regulations)	0364
	<i>Exhibit 3:</i> NYC Council Resolution 2096-2001 ("2001 Amendments")	0378
	<i>Exhibit 4:</i> Relevant portions of NYC Council Resolution 586-2004 (amending, <i>inter alia</i>, AZR §§ 32-01 & 42-01 regarding adult businesses)	0384
	<i>Exhibit 5:</i> Relevant portions of NYC Council Resolution 499-2010 (amending, <i>inter alia</i>, AZR §§ 32-01 & 42-01 regarding adult businesses)	0391
	<i>Exhibit 6:</i> NYC AZR § 31-17	0394
	<i>Exhibit 7:</i> NYC AZR § 31-18	0397
	<i>Exhibit 8:</i> NYC AZR § 32-01 (multiple versions)	0400
	<i>Exhibit 9:</i> NYC AZR § 32-69 (multiple versions)	0404
	<i>Exhibit 10:</i> NYC AZR § 42-01 (multiple versions)	0408
	<i>Exhibit 11:</i> NYC AZR § 52-11	0412
	<i>Exhibit 12:</i> NYC AZR § 52-61	0415
	<i>Exhibit 13:</i> NYC AZR § 52-734	0419
	<i>Exhibit 14:</i> NYC AZR § 52-77	0423
	<i>Exhibit 15:</i> NYC AZR § 72-41	0427
	<i>Exhibit 16:</i> NYC Administrative Code, Title 27, Chapter 1, Article 9 ("Approval of Plans")	0431

	<i>Exhibit 17: NYC Administrative Code, Title 27, Chapter 1, Article 10 (“Permits”)</i>	0438
	<i>Exhibit 18: NYC Administrative Code, Title 27, Chapter 1, Article 19 (“Issuance of Permits”) (relevant sections)</i>	0444
	<i>Exhibit 19: NYC Administrative Code, Title 27, Chapter 1, Article 22, § 27-217 (“Certificates of Occupancy / Change of Occupancy of Use”)</i>	0457
	<i>Exhibit 20: NYC Dept. of Buildings Administrative Materials: Directive 14 of 1975 (authorizing self-certification of applications for building permits by licensed architects and engineers)</i>	0462
	<i>Exhibit 21: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 17/95 (prohibiting self-certification of adult uses by architects and engineers)</i>	0466
	<i>Exhibit 22: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 6/96 (reaffirming prohibition on self-certification of adult uses by architects and engineers)</i>	0483
	<i>Exhibit 23: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 7/96 (defining “place of worship” and “church”)</i>	0492
	<i>Exhibit 24: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 8/96 (describing methodology for measuring separation between adult uses and other adult uses or sensitive receptors)</i>	0495
	<i>Exhibit 25: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 4/98 (definition of “substantial portion”)</i>	0501
	<i>Exhibit 26: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 6/98 (explanation of “substantial portion” in context of multiple uses)</i>	0505

	<i>Exhibit 27: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 5/02 (clarifying procedures for self-certification by architects and engineers)</i>	0509
	<i>Exhibit 28: NYC Dept. of Buildings Administrative Materials: OPPN 7/02 (clarifying procedures for seeking adult use “priority” permit)</i>	0516
	VOLUME 6 (pp. 0520--0629)	
	<i>Exhibit 29: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 1/04 (clarifying procedures for self-certification by architects and engineers)</i>	0520
	<i>Exhibit 30: NYC Dept. of Buildings Administrative Materials: Bulletin 2016-010 (most recent document clarifying procedures for self-certification by architects and engineers)</i>	0532
	<i>Exhibit 31: NYC Dept. of Buildings Administrative Materials: Code Note on Adult Establishment Applications (handbook from DOB website)</i>	0537
	<i>Exhibit 32: NYC Dept. of Buildings Administrative Materials: Rule Title 1, Rules of City of New York § 9000-01 (establishing priority of locations under adult zoning scheme)</i>	0549
	<i>Exhibit 33: Legislative History of 2001 Amendments, 3/21/01 DCP Application No. N 010508 ZRY (to amend the AZR definition of adult establishment)</i>	0551
	<i>Exhibit 34: Legislative History of 2001 Amendments, CEQR Negative Declaration No. 01DCP045Y of 3/23/01, and Environmental Assessment Statement No. 01DCP045Y filed 3/23/01</i>	0563

	VOLUME 7 <u>(pp. 0630--0707)</u>	
	<i>Exhibit 35: Legislative History of 2001 Amendments, Transcript of New York City Planning Commission Public Hearing held 5/23/01</i>	0630
	VOLUME 8 <u>(pp. 0708--0889)</u>	
	<i>Exhibit 36: Legislative History of 2001 Amendments, 8/8/01 New York City Planning Commission Report</i>	0708
	<i>Exhibit 37: Legislative History of 2001 Amendments, Transcript of New York City Planning Commission Public Hearing held 8/8/01</i>	0835
	<i>Exhibit 38: Legislative History of 2001 Amendments, Transcript of 10/1/01 Hearing of Zoning and Franchises Subcommittee of New York City Council</i>	0848
	VOLUME 9 <u>(pp. 0890--1068)</u>	
	<i>Exhibit 39: Legislative History of 2001 Amendments, Correspondence between Edward S. Rudofsky and New York City Council (10/9/01), and David Karnovsky and New York City Council (10/24/01)</i>	0890
	<i>Exhibit 40: Legislative History of 2001 Amendments, Transcript of 10/25/01 Meeting of Zoning and Franchises Subcommittee of New York City Council</i>	0899
	<i>Exhibit 41: Legislative History of 2001 Amendments, Transcript of 10/25/01 Meeting of Land Use Committee of New York City Council</i>	0911
	<i>Exhibit 42: Legislative History of 2001 Amendments, Transcript of 10/31/01 Meeting of the New York City Council</i>	0919

	<i>Exhibit 43: Excerpt of Record On Appeal, Ten's Cabaret, Inc. v. City of New York, Supreme Court, New York County, Index No. 121197/2002 ("State Action"), Affidavit of David Karnovsky, Counsel to the New York City Department of City Planning, sworn to 10/23/02, filed in State Action on 10/25/02 (without internal Exhibits)</i>	1032
	VOLUME 10 (<u>pp. 1069--1296</u>)	
	<i>Exhibit 44: Excerpts of Record On Appeal, Ten's Cabaret, Inc. v. City of New York, Supreme Court, New York County, Index No. 121197/2002 ("State Action"), Relevant pages from Transcripts of evidentiary hearing in State Action in Supreme Court, New York County, on 2/23/09 through 3/2/09</i>	1069
	VOLUME 11 (<u>pp. 1297--1381</u>)	
	<i>Exhibit 45: New York City Department of City Planning ("DCP") Materials, NYC DCP "Manufacturing Districts: M3" webpage (https://www.1.nyc.gov/site/planning/zoning/districts-tools/m3.page)</i>	1297
	<i>Exhibit 46: New York City Department of City Planning ("DCP") Materials, NYC Department of City Planning "Manufacturing Districts: 1/1/02 to 1/1/12" webpage (https://www.1.nyc.gov/site/planning/zoning/districts-tools/mfg-districts-2002-2012.page)</i>	1300
	<i>Exhibit 47: Studies, Moss and Quing, "<u>The Dynamic Population of Manhattan</u>", Rudin Center for Transportation Policy and Management of the New York University Wagner School of Public Service (2012) (https://wagner.nyu.edu/files/faculty/publications/dynamic_pop_manhattan.pdf)</i>	1304

	<i>Exhibit 48:</i> Linz and Paul, “Measuring the Secondary Effects of 60/40 Businesses in New York City: A Study of Calls for Service to the Police”, including Figures and Tables (2005) Exhibits 6 and 6A admitted into evidence at evidentiary hearing held on February 23 through March 2, 2009 in <u>Ten’s Cabaret, Inc. v City of New York</u>, Supreme Court, New York County, Index No. 121197/2002	1330
	VOLUME 12 (pp. 1382--1467)	
	<i>Exhibit 49:</i> Studies, Freeman, “Examining The Relationship Between Businesses That Comply With the ‘60/40’ Zoning Regulations and Surrounding Property Values in New York City” (2008) (Exhibit 8 admitted in evidence at evidentiary hearing held on 2/23/09 through 3/2/09 in <u>Ten’s Cabaret, Inc. v. City of New York</u>, Supreme Court, New York County, Index No. 121197/2002	1382
	<i>Exhibit 50:</i> Studies, Focus Probe, Inc., “Perceived Differences Between Adult Entertainment Clubs With ‘Subdued Facades’ vs. ‘Loud Facades’, with photographs (Exhibits 12, 12A, 12B and 12C admitted in evidence at evidentiary hearing held on 2/23/09 through 3/2/09 in <u>Ten’s Cabaret, Inc. v. City of New York</u>, Supreme Court, New York County, Index No. 121197/2002)	1418
	<i>Exhibit 51:</i> New York Court of Appeals Brief, Excerpt from Respondents’ Brief of City of New York, et al., in <u>Stringfellow’s of New York, Inc. v. City of New York</u>, New York County Index Nos. 113049/96 103568/96 and 103569/96, filed in New York Court of Appeals, dated 12/11/97	1443

	<i>Exhibit 52: Excerpts from September 3, 1996 deposition testimony of Marilyn Mammamo, Director of Zoning & Urban Design of the NYC Department of City Planning, in <u>Hickerson v. The City of New York</u>, New York County Index No. 103569/96</i>	1448
	<i>Exhibit 53: Undocketed Correspondence With Court, Litigation Management Agreement dated 9/25/17 (Exhibit B to 3/2/18 letter from Plaintiffs to Hon. William Pauley) in all current club cases</i>	1459
	<u>DOCUMENTS SUBMITTED BY BOOKSTORE PLAINTIFFS</u>	
	<u>VOLUME 13 (pp. 1468--1574)</u>	
N	Declaration of Dr. Elliott Sclar in Support of Plaintiffs' Motion for Preliminary Injunction	1468
	<i>Exhibit 1: Dr. Sclar's Curriculum Vitae</i>	1515
	<i>Exhibit 2: Maps Prepared by the Department of City Planning in Support of the 1995 Resolution Showing Permissible Areas for Adult Establishments</i>	1539
	<i>Exhibit 3: Maps Prepared by the Department of City Planning Showing Zoning Changes between 1995 and 2001 in Support of the 2001 Resolution</i>	1545
	<i>Exhibit 4: Reports issued by the Department of City Planning and Information in the Press Confirming the Effectiveness of Mayor Bloomberg's Administration in Rezoning New York City</i>	1561

	VOLUME 14 (pp. 1575--1683)	
	<i>Exhibit 5: Report Prepared by the Department of City Planning Detailing the Reduction in Manufacturing Districts between 2002 and January 2012</i>	1575
	<i>Exhibit 6: Map Depicting Zoning Changes in New York City between January 2002 and September 2018</i>	1594
	<i>Exhibit 7: Table 1: List of Adopted Rezoning that Impacted Manufacturing Use</i>	1596
	<i>Exhibit 8: Table 2: List of Certified Rezoning that Impact Manufacturing Use</i>	1603
	<i>Exhibit 9: Map of Anticipated Mandatory Inclusion Housing (“MIH”) Rezoning</i>	1605
	<i>Exhibit 10: Department of City Planning Report on City Planning History</i>	1607
	<i>Exhibit 11: MTA Staten Island Railway (“SIR”) System Map</i>	1612
	<i>Exhibit 12: Map Showing the Staten Island Railway Route Superimposed on the Map of Permissible Areas on Staten Island Prepared by the Department of City Planning in Support of the 1995 Resolution</i>	1614
O	Declaration of Daniel J. Zazzali in Support of Plaintiffs’ Motion for Preliminary Injunction	1616
P	Declaration of Daniel Knecht in Support of Plaintiffs’ Motion for Preliminary Injunction	1643

	<i>Exhibit 1: Map of Public Transportation between the Plaintiffs' Bookstore at 336 Eighth Avenue, in Manhattan, and the Only Permissible Adult Bookstore with booths, on Staten Island</i>	1659
Q	Declaration of Yitzik Shachaf in Support of Plaintiffs' Motion for Preliminary Injunction	1662
R	Declaration of Erica T. Dubno in Support of Plaintiffs' Motion for Preliminary Injunction	1670
	VOLUME 15 (pp. 1684--1755)	
S	Bookstore Plaintiffs' Request to Take Judicial Notice	1684
	<i>Exhibit 54: Z.R. § 42-11</i>	1691
	<i>Exhibit 55: Z.R. § 42-13</i>	1694
	<i>Exhibit 56: New York City Charter § 85 "Borough Board"</i>	1698
	<i>Exhibit 57: DCP "Use Groups" webpage</i>	1702
	<i>Exhibit 58: DCP "Manufacturing Districts: Overview" webpage</i>	1707
	<i>Exhibit 59: DCP City Planning History webpage</i>	1710
	<i>Exhibit 60: DCP "Community-Based Planning" webpage</i>	1715
	<i>Exhibit 61: DCP "Special Purpose Districts: Citywide" webpage</i>	1722
	<i>Exhibit 62: DCP "Special Purpose Districts" webpage</i>	1730

	<i>Exhibit 63: DCP Press Release, November 15, 2011, containing “Mayor Michael Bloomberg’s Remarks at Zoning the City Conference, as Delivered by Deputy Mayor Robert K. Steel</i>	1732
	<i>Exhibit 64: DCP’s Portion of the Mayor’s Management Report, dated September 2012</i>	1736
	<i>Exhibit 65: Excerpts from NYC’s Risk Landscape: A Guide to Hazard Mitigation, Coastal Erosion Chapter 4.2, developed by the NYC Emergency Management in Partnership with the DCP and Close Collaboration with the NYC Mayor’s Office of Recovery and Resiliency</i>	1741
	<u>VOLUME 16</u> <u>(pp. 1756--1852)</u>	
	<i>Exhibit 66: Excerpts from the NYC Building Department’s “Place of Assembly” guide</i>	1756
	<i>Exhibit 67: Excerpts from the NYC Fire Department’s “Theater Inspections, Maintenance and Recordkeeping” Rules</i>	1759
	<i>Exhibit 68: MTA Staten Island Railway (“SIR”) System Map</i>	1765
	<i>Exhibit 69: MTA Notice regarding Bridges and Tunnels Tolls</i>	1767
	<i>Exhibit 70: Zoning and the Comprehensive Plan, James A. Coon Local Government Technical Series, Revised 2015</i>	1772
	<i>Exhibit 71: NYS Public Health Law § 3000-d</i>	1791
	<i>Exhibit 72: Charles V. Bagli, “Going Out With a Building Boom, Mayor Pushes Billions in Projects”, N.Y. Times, Dec. 15, 2013</i>	1795

	<i>Exhibit 73: Ford Fessenden, “The Bloomberg Years: Reshaping New York”, N.Y. Times, Aug. 18, 2013 (interactive feature)</i>	1801
	<i>Exhibit 74: “Mayor Bloomberg’s NYC Mayoralty Comes To An End”, dailyfreeman.com, Dec. 31, 2013</i>	1803
	<i>Exhibit 75: James Dao, “The 1993 Elections: Staten Island; Secession is Approved; Next Move is Albany’s”, N.Y. Times, Nov. 3, 1993</i>	1806
	<i>Exhibit 76: Maps (Reduced Size Versions) Generated by the DCP of Manhattan, Brooklyn, Bronx, Queens, and Staten Island indicating “Areas Where Adult Uses Would Continue to be Allowed Under the Proposal and Encumbered Property Within those Areas” filed in State Judicial Proceedings in Connection with the 1995 Resolution: <u>Amsterdam Video, Inc. v. City of New York</u>, Supreme Court, New York County, Index No. 103568/96, and <u>Hickerson v. City of New York</u>, Supreme Court, New York County, Supreme Court, New York County, Index No. 103569/96</i>	1810
	<i>Exhibit 77: Excerpts from September 3, 1996 deposition testimony of Marilyn Mammano, Director of Zoning & Urban Design of the NYC Department of City Planning, in <u>Hickerson v. The City of New York</u>, New York County Index No. 103569/96</i>	1816
	<i>Exhibit 78: Maps generated by the DCP depicting the reduction in permissible areas for adult businesses based on Zoning Changes between 1995 and 2001, filed in <u>For the People Theatres</u> on October 17, 2002, as Exhibit S to the Affidavit of David Karnovsky</i>	1838

	VOLUME 17 (pp. 1854--1881)	
	<i>Exhibit 79: Excerpts from Affidavit of David Karnovsky filed in <u>For The People Theatres of N.Y., Inc., et al. v. The City of New York, et al.</u>, New York County Supreme Court Index No. 121080/02</i>	1854
	<i>Exhibit 80: Excerpts from the DCP's Adult Entertainment Study, November 1994</i>	1864
	<i>Exhibit 81: 8/2/17 Stipulation and Agreement between Bookstore Plaintiffs and The City of New York</i>	1875

Dated: New York, New York
November 21, 2018

Respectfully,

**DANIEL A. SILVER
SILVER & SILVER**

One Liberty Square
New Britain, Connecticut 06050-0698
(860) 225-3518

- and -

JENNIFER KINSLEY

Kinsley Law Office
Post Office Box 19478
Cincinnati, Ohio 45219
(513) 708-2595

*Attorneys for Plaintiffs
725 Eatery Corp., etc., et ano.*

By: s/Daniel A. Silver
Daniel A. Silver

**EDWARD S. RUDOFSKY
ZANE and RUDOFSKY**

601 West 26th Street, # 1315
New York, New York 10001
(212) 245-2222

*Attorneys for Plaintiffs
59 Murray Enterprises, Inc., etc.
et al.*

By: s/Edward S. Rudofsky
Edward S. Rudofsky

**JOHN H. WESTON
G. RANDALL GARROU
WESTON, GARROU & MOONEY**

12121 Wilshire Boulevard, Suite 525
Los Angeles, CA 90025-1176
(310) 442-0072

- and -

**ALAN M. ABRAMSON
ABRAMSON & MORAK**

35 Worth Street
New York, NY 10013
(212) 226-7098

*Attorneys for
Club At 60th Street, Inc., etc., et al.*

By: s/John Weston
John Weston

FAHRINGER & DUBNO

767 Third Avenue, Suite 3600
New York, New York 10017
(212) 319-5351

*Attorneys for Plaintiff's
336 LLC, etc., et al.*

By: s/Erica T. Dubno
Erica T. Dubno

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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725 EATERY CORP., etc., *et ano.*, :

Plaintiffs, :

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Civil Action No.
02 CV 4431 (WHP)

THE CITY OF NEW YORK, et al., :

Defendants. :

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59 MURRAY ENTERPRISES INC., etc., *et al.*, :

Plaintiffs, :

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Civil Action No.
02 CV 4432 (WHP)

THE CITY OF NEW YORK, et al., :

Defendants. :

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CLUB AT 60TH STREET, INC., etc., *et al.*, :

Plaintiffs, :

- against - :

Civil Action No.
02 CV 8333 (WHP)

THE CITY OF NEW YORK, :

Defendant. :

-----X

**DECLARATION OF MICHAEL BERZAK REGARDING ADULT BUSINESS SITES
IN SUPPORT OF
PLAINTIFFS' MOTIONS FOR PRELIMINARY INJUNCTION**

I, MICHAEL BERZAK, hereby declare as follows:

1. My name is Michael David Berzak. I have personal knowledge of the facts stated herein and submit this declaration in support of Plaintiffs' motions for preliminary injunction.

I. BACKGROUND AND QUALIFICATIONS

2. I am a licensed architect in New York State and have been since August 1985. I am the owner and principal of Berzak Associates, PC, a New York professional corporation providing architectural and land planning services in the State of New York and in particular, New York City. I have documented my experience in a separate declaration filed herein entitled “Declaration of Michael Berzak on Permitting Issues Presented in Support of Plaintiffs’ Motion for a Preliminary Injunction” and incorporate the entirety of its contents herein by this reference.

3. All of the work performed in connection with this declaration was performed by me and/or my firm’s personnel working under my direction and supervision.

4. We were hired to examine maps produced by the New York’s Department of City Planning (DCP) in 1995 (the “1995 Maps”) which purportedly displayed locations where adult businesses were legally permissible under the then-current zoning regulations, and then to determine the effect on those locations today of a) subsequent zoning map changes; b) current uses such as schools, places of worship and existing adult locations, and c) sites which are unavailable for any commercial use. To illustrate this, we created a series of maps beginning with the City’s 1995 Maps and then, in successive maps, sequentially show, borough by borough, the impact caused by zoning changes, and, in Manhattan, showing the combined impact of *all* of these factors.

5. In addition, we were asked to determine how many currently legally permissible sites for new adult businesses in Manhattan would be commercially viable for an adult eating and drinking establishment and, of that number, how many could simultaneously operate without violating the City’s restriction prohibiting adult businesses from existing on the same lot or within 500 feet of each other.

II. CONCLUSIONS

6. It is my expert opinion that:

a. As a result of numerous rezonings and various other factors in all of New York’s five boroughs which affect the number of legally permissible sites for an “adult

establishment” (as that term is defined in New York’s Amended Zoning Resolution [“AZR”] § 12-10(1)), there is *substantially* less legally permissible area throughout the entire City for any new or relocating adult establishment than existed in 1995 when DCP completed what I believe to be its last purported comprehensive study of locations available for such businesses.

b. The number of eating and drinking establishments currently presenting live adult entertainment in New York City, and in Manhattan in particular, has diminished drastically since enactment of the City’s original 1995 adult zoning ordinance by 1995 Resolution No. 1322 (“Original Ordinance”).

c. If the 2001 Amendments take effect, with their forced closure of Plaintiffs’ and other 60-40 clubs, there will be even substantially *fewer* such businesses in Manhattan and possibly the entire City.

d. If both the new restrictions on adult businesses contained in the 2001 Amendments and the post-1995 zoning changes are applied to the areas previously shown on the City’s 1995 Maps as allowing adult uses, no more than 16 legally permissible sites in Manhattan¹ could be occupied simultaneously by new or relocating adult eating and drinking establishment businesses; and those establishments would be potentially competing with new and relocating adult bookstores and adult bookstores with on-premises video machines for sites in 13 of these 16 potential relocation areas.

e. Enforcement of the 2001 amendments would close all 60-40 adult eating and drinking establishments and 60-40 adult book and video stores in the City. In Manhattan, the effect would be to close the six 60-40 eating and drinking establishments operated by Plaintiffs, plus, I am informed and believe, two additional

¹ The number of *theoretical* individual legally permissible sites is much greater, but because only one adult business may exist within 500 feet of another, (AZR § 32-01(c) and 42-01 (c)), the proximity of these potential sites to each other limits the number of potential new adult businesses in Manhattan to no more than 16 – the number of sites which could be simultaneously occupied by new or relocating adult businesses.

60-40 eating and drinking establishments, 14 adult bookstores with video display booths, and an unknown number of additional adult bookstores without video display booths. This would be a *minimum* of 22 displaced 60-40 businesses and likely several more depending on the ultimate number of adult bookstores.

f. In short, in Manhattan, there would not even be as many legally permissible sites which could be simultaneously occupied by adult businesses as the number of 60-40 businesses which the 2001 amendments would require to close. Moreover, in almost all of the limited legally permissible areas for adult businesses, 60-40 eating and drinking establishments would be competing with displaced 60-40 adult bookstores and video stores for the same very few new locations.

g. In addition, for the reasons detailed below, it is my expert opinion that in Manhattan, there would be no more than *three* legally permissible sites for new or relocating adult eating and drinking establishments which would have the potential to be commercially viable for such a use and which could be occupied simultaneously by adult businesses. Further, I have no idea of the extent to which, or whether, any of these five sites may, in fact, be presently commercially available.

III. THE CURRENT LOCATIONAL RESTRICTIONS

7. The City's current AZR defines "adult establishments" (in AZR § 12-10, as amended in 2001), to include any "adult eating or drinking establishment," defined in turn as any eating or drinking establishment "which regularly features in any portion of such establishment" live performances characterized by an emphasis on "specified anatomical areas" or "specified sexual activities". Adult establishments are allowed only in limited commercial and manufacturing districts. Locations within the manufacturing and commercial zones are further restricted, primarily, by AZR § 32-01 (commercial zone restrictions on adult uses) and § 42-01 (manufacturing zone restrictions on adult uses). These provisions have been amended several times since first enacted in 1995, but the descriptions which follow are those currently in effect

and which I followed in compiling the maps attached as exhibits hereto. A complete and current copy of these provisions is attached hereto as Exhibit 6.

A. Adult Establishments in Commercial Zoning Districts

8. Pursuant to AZR § 32-01(a), with respect to *commercial districts*, adult establishments are allowed, subject to a variety of additional locational and use group restrictions, in C6-4, C6-5, C6-6, C6-7, C6-8, C6-9, C7 or C8 Districts (hereafter Permissible Commercial Districts”) and in no others, and are expressly prohibited in C1, C2, C3, C4, C5, C6-1, C6-2 and C6-3 Districts.

9. Within the Permissible Commercial Districts,” adult establishments are prohibited from locating:

a. **Pursuant to AZR § 32-01(b):** Within 500 feet of any C1, C2, C3, C4, C5-1, C6-1, C6-2 or C6-3 District, or a Manufacturing District, other than an M1-6M District, in which *new* residences or new joint living-work quarters for artists are allowed as-of-right or by special permit or authorization. Per AZR § 74-782, such manufacturing districts include the M1-5A, M1-5B, M1-5M and M1-6M. Per AZR § 42-02, such manufacturing districts additionally include, among others, the M1-1D, M1-2D, M1-3D, M1-4D districts. Per AZR § 15-021, such manufacturing districts also include a variety of specific areas located within what I will call the “general” M1-5 and M1-6 districts (i.e., areas in the M1-5 and M1-6 districts with district zoning designations on the City’s zoning map which do not show any smaller sub-district designations). In preparing the maps attached hereto, rather than showing locations within 500 feet of the *entire* M1-5 and M1-6 districts as being impermissible for adult uses, I excluded sites within 500 feet of “general” M1-5 and M1-6 districts from being permissible for adult uses *only* if the locations in these two general districts were within the specific street boundaries stated in § 15-021.

- b. **Pursuant to AZR § 32-01(b):** Within 500 feet of any Residence District.
- c. **Pursuant to AZR § 32-01(b):** Within 500 feet of any house of worship or school.
- d. **Pursuant to AZR § 32-01(c):** Within 500 feet of any existing lawful 100% adult business or any location where such a business has previously operated and has priority entitling it to resume operation.
- e. **Pursuant to AZR § 32-01(d):** On a zoning lot with any other adult use.
- f. **Pursuant to AZR § 32-00, et seq.:** Within any Permissible Commercial District which does not allow the adult use’s particular “use group.”
 - i. All adult eating and drinking establishments presenting live entertainment are in Use Group 12 and, subject to the other restrictions enumerated above, are legally permissible in all the Permissible Commercial Districts described above.
 - ii. Adult bookstores, including those with video booths, are Use Group 6 uses. Use Group 6 uses are allowed in all the Permissible Commercial Districts described above.

10. Additionally, pursuant to AZR § 32-01(e), the AZR prohibits adult businesses from exceeding 10,000 square feet (exclusive of any cellar areas used solely for storage or mechanical equipment).

B. Adult Establishments in Manufacturing Zoning Districts

11. Under AZR § 42-01(a) “adult establishments” are generally allowed in any Manufacturing District *other than* those in which “residences” or “joint living-work quarters for artists” are allowed “as-of-right” or by “special permit” or “authorization.” Adult establishments are potentially permissible in the M2 and M3 districts as these types of mixed residential uses are not allowed in any of those districts. The only other manufacturing general zoning district is the M1 district. Because some sub-districts within the M1 general zoning district allow these types

of mixed residential uses, those specific sub-districts are off limits to adult businesses. Specifically, adult uses are not allowed in *any* of the following M1 sub-districts: M1-1D, M1-2D, M1-3D, M1-4D, M1-5D, M1-6D, M1-5A, M1-5B, M1-5M (in Manhattan Community Districts 1, 2, 3, 4, 5 & 6), and the M1-1 District (to the extent bounded by 95th Avenue, 148th Street, 97th Avenue and 147th Place in Community District 12 in the Borough of Queens).

12. Additionally, because AZR § 74-782 allows pre-existing residential uses in the M1-6M district, that district as well is off limits to adult business, because AZR § 42-01(a) (unlike AZR § 42-01 (b)) not only excludes adult uses from manufacturing districts in which *new* such residential uses are allowed, but also prohibits them from locating in manufacturing districts in which established or older residential uses are allowed, so long as they are expressly allowed “as of right,” by “special permit” or by “authorization.”

13. To the best of my knowledge, neither old nor new “residences” nor “joint living-work quarters for artists” are allowed “as-of-right” or by “special permit” or “authorization” in any M1 districts *other than* those specifically described above, nor in any M2 or M3 zoning district, so the M2 and M3 zoning districts and all M1 districts *other than* those described above, subject to various additional locational and use group restrictions, are at least potentially legally permissible for adult uses. Hereafter I will refer to those as the “Permissible Manufacturing Districts.”

14. Within the Permissible Manufacturing Districts, adult uses are prohibited from locating:

- a. **Pursuant to AZR § 42-01(b):** Within 500 feet of any C1, C2, C3, C4, C5-1, C6-1, C6-2 or C6-3 District, or any M1-5A, M1-5B and M1-5M Manufacturing District.
- b. **Pursuant to AZR § 42-01(b):** Within 500 feet of any Residence District.
- c. **Pursuant to AZR § 42-01(b):** Within 500 feet of any house of worship or school.

d. **Pursuant to AZR § 42-01(c):** Within 500 feet of any previously established adult establishment.

e. **Pursuant to AZR § 42-01(d):** On a zoning lot with any other adult use.

f. **Pursuant to AZR § 42-00, et seq.:** Within any Permissible Manufacturing District which does not allow the adult use's particular "use group." As noted above, adult eating and drinking establishments presenting live entertainment are in Use Group 12 and, adult bookstores, including those with video booths, are in Use Group 6. Use Group 12 uses are legally permissible in all the Permissible Manufacturing Districts described above. In contrast, Use Group 6 uses are not allowed in any M2 or M3 zoning district. Consequently, there are fewer legally permissible locations for adult bookstores and adult bookstores with video booths than for adult eating and drinking establishments.

15. As is the case in commercial zones, adult businesses in manufacturing zones are likewise restricted to 10,000 square feet (exclusive of any cellar areas used solely for storage or mechanical equipment). AZR § 42-01(e).

16. Both AZR §§ 32-01 and 42-01 contain the following identical unnumbered paragraph (added by the City's 2001 Adult Zoning Amendments) for determining the date of "establishment" of an adult use for zoning purposes:

For purposes of this Section, an adult establishment shall be established upon the date of a permit issued by the Department of Buildings therefor, or, in the case of an adult establishment in existence prior to August 8, 2001, as determined by the Department of Buildings, subject to rules as the Department of Buildings may prescribe regarding the failure to perform work authorized under a permit or to commence operation pursuant to a permit and the discontinuance of an #adult establishment#.

17. Additional important limitations and regulations on the location and establishment of adult uses are found in various pronouncements from the New York City Department of Buildings ("DOB") which I attach hereto as exhibits, including Rules (1 RCNY § 9000-01)

(Exhibit 7), Operations Policy and Procedure Notices (“OPPN”s) (OPPN nos. 17/95, 6/96, 7/96, 8/96, 4/98, 6/98, and 7/02) (Exhibits 8-14), and an online DOB handbook published in 2016 entitled “Adult Establishment Applications” (Exhibit 15). Additionally, there are relevant general AZR provisions describing permissible use groups which, though not adult-specific, affect the locations where various types of adult uses are permissible. Because obtaining a thorough understanding of all these documents and provisions is essential to my effective representation of adult use clients, I am well familiar with all their contents and summarize below their net effect on the permissible locations for adult entertainment businesses in New York City.

IV. DATA FROM WHICH OUR INITIAL MAPS WERE CREATED

18. We started by obtaining all the Department of City Planning (DCP)’s current digital street maps for the City – initially we were given separate maps for each community district in each borough, which we then combined into a single digital street map for each borough, showing every City street, block boundary and lot boundary.

19. We then digitally added the data from DCP’s 1995 Maps (which maps purportedly showed the legally permissible sites for adult businesses under the 1995 Ordinance and which I understand the City used to defend its ordinance in the initial state court litigation challenging the 1995 Ordinance), to our digital borough street maps, resulting in *digital* copies of DCP’s 1995 Maps. These showed not only all the City’s blocks and lots, but also exactly duplicated all the information on the City’s 1995 Maps, including the same color coding scheme indicating zoning districts where the City believed adult businesses were then allowed. I attach hereto as Exhibits 1-A, 2-A, 3-A, 4-A and 5-A the maps that we thus created which, augmented by the blocks and lots data we added, duplicated DCP’s 1995 Maps, respectively, for Manhattan, Queens, the Bronx, Brooklyn and Staten Island.

V. DESCRIPTION OF THE MAPS

20. The attached “A” series of maps (i.e., Exhibits 1-A, 2-A, 3-A, 4-A and 5-A prepared, respectively, for Manhattan, Queens, the Bronx, Brooklyn and Staten Island) show the

location of all areas which the City contended, in 1995, were legally permissible for adult businesses, including areas which the City itself acknowledged were “encumbered” and thus unavailable for any adult business. They also reproduce the City’s 1995 Maps to the extent they show the permissible areas which the City was then *considering* for future re-zonings which would render such areas impermissible for adult uses.

21. Attached Exhibits 1-B, 2-B, 3-B, 4-B and 5-B are maps of Manhattan, Queens, the Bronx, Brooklyn and Staten Island which are identical to the corresponding “A” map described above for each borough but from which have been eliminated all the areas which the City identified on its original 1995 maps as “encumbered,” and thus unavailable for any adult business.

22. Attached Exhibits 1-C, 2-C, 3-C, 4-C and 5-C are maps of Manhattan, Queens, the Bronx, Brooklyn and Staten Island identical to the corresponding “B” map described above for each borough, but showing only the areas on those maps which have now *in fact* become impermissible for adult uses because of zoning changes occurring since 1995.

23. For all boroughs *other* than Manhattan (hereafter the “Outer Boroughs”) our mapping study ended with each borough’s C map (*see* ¶ 22 above). Given the enormous cost and time to evaluate the *remaining* factors in each borough that would disqualify a site for an adult business, we confined the balance of the analysis to only Manhattan.

24. Attached Exhibit 1-D is identical to Map 1-C but from which have been eliminated areas in Manhattan no longer permissible for adult uses as a result of zoning changes occurring since 1995.

25. Attached Exhibit 1-E is a map of Manhattan identical to Map 1-D but showing the location of schools (as that term is defined in AZR § 12-10) and “houses of worship” (which is an undefined term in the AZR but has been construed by DOB’s Policy and Procedure Notice (PPN) # 7/96 to mean “any ‘place of worship’”) in Manhattan that are either in, or within 500 feet of any of the colored areas shown on Map 1-D. We found a total of 33 schools and 73 houses of worship in Manhattan in or within 500 feet of such areas (as of June 12, 2018) and

provided the names and addresses of each on the map.² This is a total of 106 “new” (or previously undocumented) sensitive uses in or near adult-permissible areas in Manhattan alone.

In making this map, we proceeded as follows:

a. We determined the present location of all schools and houses of worship (as those terms are used in AZR §§ 32-01 and 42-01) located in or within 500 feet of any of the colored areas shown on Map 1-D. We used the following sources to obtain the information:

- i. Online search engines: Google Maps, Google
- ii. NYC online map: Oasisnyc.net
- iii. NYS Office of Children and Family Services
- iv. NYC Department of Education
- v. NYC Department of Finance Digital Tax Map
- vi. On site personal inspection

b. In deciding whether a site housed a “school,” we relied on the definition of that term provided in AZR § 12-10, which as revised on January 18, 2011, states:

A “school” is:

(a) an institution providing full-time day instruction and a course of study that meets the requirements of Sections 3204, 3205 and 3210 of the New York State Education Law; or

(b) a nursery school or kindergarten:

(1) whose annual session does not exceed the school sessions for full-time day schools prescribed in Section 3204 of the New York State Education Law; and

(2) which is operated by the Department of Education or any established religious organization as part of an elementary school; or

² This “house of worship” total includes six hospitals for the reasons set forth in ¶ 26.

(c) a child care service operating under a permit issued pursuant to Section 47.03 of the New York City Health Code.

c. Based upon the AZR's definition of "schools," we also included all day care centers registered pursuant to the New York City Health Code.

26. Map 1-E also shows and identifies six hospitals in, or within 500 feet of, the colored areas shown on Map 1-D. I treated these hospitals as "houses of worship" because each of them had chapels or similar designated places of worship (the term "house of worship" used in AZR §§ 32-01(b) and 42-01(b) is defined as "places of worship" in DOB's PPN #7/96).

27. Attached Exhibit 1-F is a map of Manhattan identical to Map 1-E but from which have been eliminated all areas shown on Map 1-E as being occupied by, or within 500 feet of any "school" or "house of worship."

28. Attached Exhibit 1-G is a map of Manhattan identical to Map 1-F showing the location of public and privately owned property we found within any of the colored areas on Map 1-F and which is currently dedicated for a specific long-term purpose and thus would not be available for development by *any* type of commercial use. Being extremely conservative in our assessments, we identified 26 such properties in Manhattan which beyond *any* reasonable doubt appeared to meet these criteria. The name and address of each such location appears on the map, and each such location is shown on the map by a tan color. To find and ascertain these locations, my staff and I did our own research, last updated on June 12, 2018, using the following sources and methods:

- a. Online search engines: Google Maps, Google
- b. NYC online map: Oasisnyc.net
- c. NYC Department of Buildings online database (BIS)
- d. NYC Department of Finance Digital Tax Map
- e. On site personal inspection

29. Attached Exhibit 1-H is a map of Manhattan identical to Map 1-G but from which have been eliminated all locations shown on Map G in a tan color (i.e., all locations dedicated for

specific long-term purposes which would not be available for development by *any* type of commercial use).

30. Attached Exhibit 1-I is a map of Manhattan identical to Map 1-H but showing, within an individually numbered gold circle, the location of each existing 100% adult business location in Manhattan. The name and address of each such location appears on the map. We have found only nine such locations. I have confirmed that adult businesses at each of these locations were either still in operation as of June 13, 2018, the date I last updated our study, or, in one case, had previously been in operation through a date unknown, but a building permit had recently been issued authorizing the business to operate at the indicated location. The areas represented by the nine gold circles on this map have a 1000 foot diameter and reflect a 500 foot radius drawn from a center point at the front door of each such existing adult business utilizing the measurement methods dictated by DOB's OPN #8/96 (Exhibit 11).

31. Attached Exhibit 1-J is a map of Manhattan identical to Map 1-I but from which have been eliminated all areas within the 500' radii circles shown on Map 1-J surrounding the location of existing 100% adult entertainment businesses.

32. Attached Exhibit 1-K is a map of Manhattan identical to Map 1-J but denoting all areas within Map 1-J which could *simultaneously* be occupied by new adult eating and drinking establishments. Because there is a required 500 foot separation distance between all adult entertainment businesses, we have drawn circles with a 500 foot radius around all legally permissible sites shown on Map 1-K to illustrate, in our best estimation, the total number of sites which could be occupied *simultaneously*.

VI. FINDINGS

A. Findings on the number of *legally permissible* sites

33. In the Outer Boroughs, it is clear that because of the significant rezonings shown by the accompanying Maps 2-C, 3-C, 4-C and 5-C, there is *substantially* less legally permissible area today for adult entertainment business in the Outer Boroughs than at the time DCP prepared its 1995 Maps. However, I cannot provide a reasonable estimate of the total reduced number of

current legally permissible sites, because we do not know the locations in the Outer Boroughs of all properties which are currently occupied by “schools,” “houses of worship,” adult entertainment businesses, or which are encumbered or otherwise unavailable for any commercial purpose).

34. Even apart from today’s greatly diminished *legally permissible* area in the Outer Boroughs, there are also future, not-yet-finalized contemplated City plans for re-zoning the Gowanus Canal area in Brooklyn which, if ultimately adopted, would remove tangible additional areas in Brooklyn from those which are currently legally permissible for adult uses. In my opinion, no reasonable entrepreneur would invest the time, effort and millions of dollars necessary to create a new adult eating and drinking establishment in those areas given the great risk of its becoming nonconforming in a few years because of rezoning in the Gowanus Canal area and subject to a mandatory one-year termination under AZR § 52-77. I attach hereto as Exhibit 16 a City-generated map showing the Gowanus Canal areas which are under consideration for zoning changes allowing residential and mixed uses. (This can be found at https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/gowanus/study_areas.pdf.)

Because the current zoning in those areas is almost entirely manufacturing, most of it is *presently* presumptively legally permissible for adult uses. An interesting summary of the City’s future plans for this area appears at “<https://ny.curbed.com/2018/8/28/17792850/gowanus-rezoning-residential-density-developers-lobbying>.” However, because it is presently legally permissible for adult uses, I did *not* treat as legally impermissible any of this land in my Map 4-C showing *currently* zoned-out locations in Brooklyn.

35. With respect to Manhattan, we found 84 zoning lots containing legally permissible sites for adult businesses.³ However, as a practical matter, after factoring in the

³ Because a number of individual buildings had within them multiple street addresses, we counted several more individual theoretical sites than there were permissible zoning lots. However, because the AZR allows only one adult business per single “zoning lot,” this greater number of individual theoretical sites did not affect the total number of actual potential legally permissible sites.

effect on these 84 lots of the AZR's required 500 foot separation between adult businesses, no more than 16 legally permissible lots could actually be occupied simultaneously by new adult eating and drinking establishments -- one legally permissible lot in each of the 16 circled areas shown on the accompanying map entitled Exhibit 1-K.⁴

36. However, in 13 of these 16 areas, any new or relocating adult eating and drinking establishment presenting live entertainment would also be competing with all new or relocating adult bookstores.

B. Findings on the number of *commercially viable* sites

37. With respect to Manhattan, in April, 2018, I conducted an on-site personal examination of *all* of its 84 legally permissible zoning lots for adult businesses. Based on my experience as an architect of over 30 years, including for several adult businesses, it is my opinion that a total of only *five* individual sites in Manhattan are both legally permissible *and* commercially viable for establishment of any type of eating and drinking establishment featuring live adult entertainment and, because of the 500 foot separation requirement between adult businesses, only *three* of these could be used by adult businesses simultaneously.

38. In excluding sites as not viable for adult commercial adult eating and drinking establishment uses, I considered the following "exclusion factors":

- a. Size. I excluded 12 sites which would not provide 2,500 – 3,000 sq feet of interior space, which is the minimum required by club operators for a) bar(s) and kitchen space, a coat room, cashier, office, entertainers' dressing room and lavatory, men's and women patrons' lavatories and liquor storage (a cumulative total of approximately

⁴ While it is *theoretically* possible in some of these 16 circled areas for two adult businesses to exist simultaneously, both of such uses would have to be located at the extreme peripheries of these areas most remote from each other. However, having personally visited and evaluated every potential site within all 16 areas, in my expert opinion, it is not *remotely* "real world" possible that could happen given the nature of the existing structures in those extreme peripheral portions of the areas. Also, the establishment of just one adult business in the center of these 16 areas would preclude even the remote possibility of there being two adult uses within any of them.

1,000 square feet) and b) stage and seating areas for patrons of approximately 1,500 to 2,000 sq feet (depending upon configuration of the premises).

- b. Compatibility with existing uses. I excluded 34 sites which were plainly incompatible with adult uses, such as “Class A” office buildings and residences.
- c. Vacant land. I excluded 7 unimproved sites which would take a minimum of 2 – 3 years to develop and which, in my opinion, would never be acquired and developed by any type of adult business.
- d. Necessity of structural modification. I excluded 27 sites requiring such extensive structural modification to the size/shape of the building, required interior stairs and setbacks, floor “live load” requirements (i.e., to support 100 lbs psf), means of ingress and egress, installation of elevators, etc., as to make the use of the site for an adult cabaret completely unrealistic.
- e. Adult use restriction. I excluded 9 of the 18 sites located on potential multi-site lots on the basis that only one adult use can be located on each zoning lot.
- f. In a number of cases, I excluded a particular site for more than one exclusion factor.

39. If called to testify as a witness, I am prepared to indicate which of these “exclusion factors” applies to each of the sites we studied and determined not to be viable for adult eating and drinking establishment use.

40. Based on this evaluation, it is my opinion that if the 2001 Amendments are allowed to take effect and the existing 60-40 businesses forced to close, the public’s access to adult live entertainment businesses citywide will be significantly reduced, and in Manhattan in particular, will be *severely* reduced.

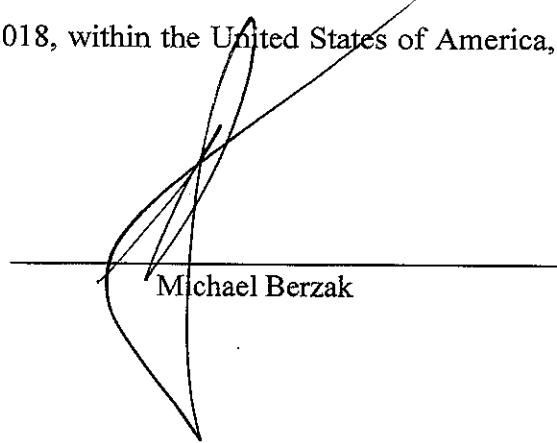
I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of November, 2018, within the United States of America, at New York, New York,

Michael Berzak

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13 day of November, 2018, within the United States of America, at New York, New York,



Michael Berzak

Exhibit 1

Series of Maps Showing Progression of Adult
Sites in Manhattan From 1995 to Present

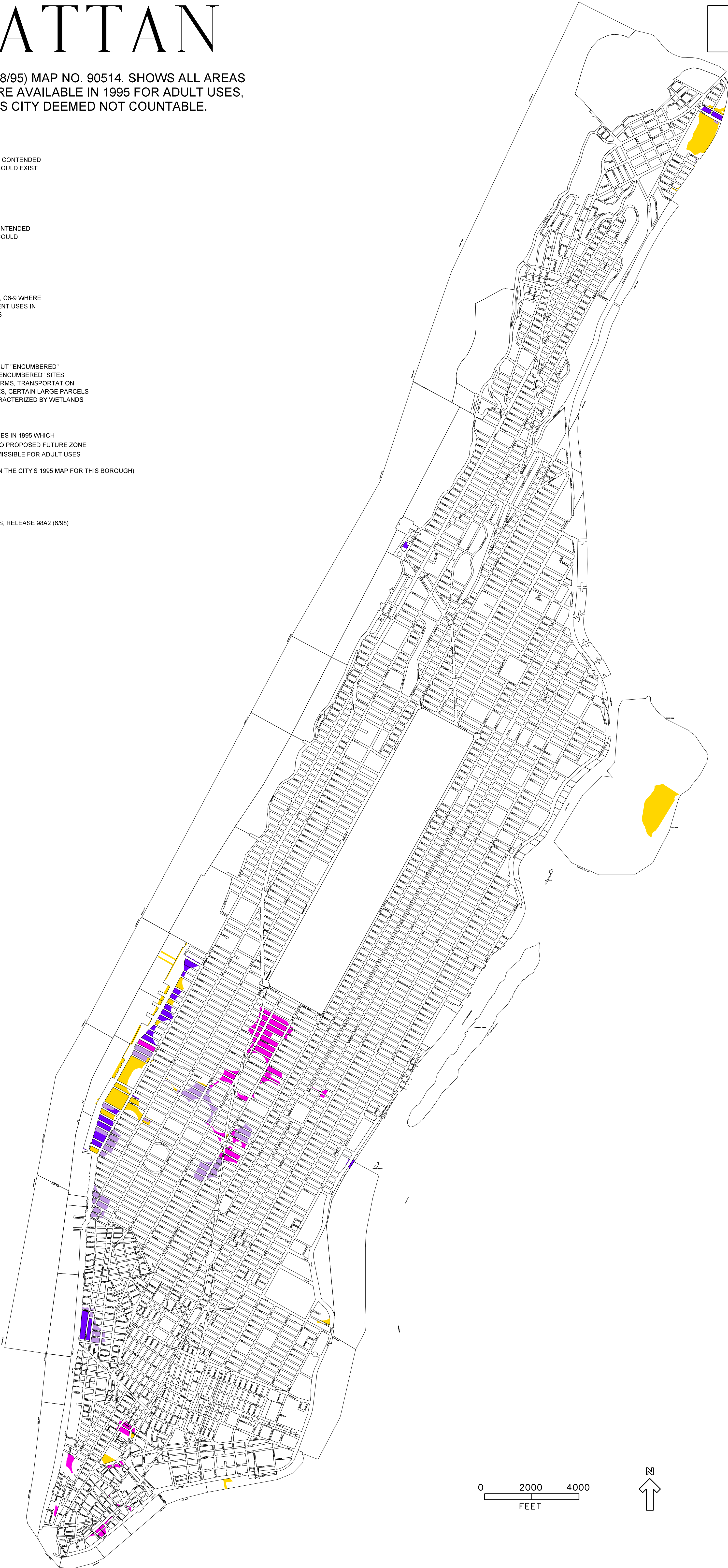
MANHATTAN

EXHIBIT 1 - A

DIGITIZED RE-CREATION OF DCP'S (9/18/95) MAP NO. 90514. SHOWS ALL AREAS IN MANHATTAN CITY CONTEDED WERE AVAILABLE IN 1995 FOR ADULT USES, INCLUDING ENCUMBERED AREAS CITY DEEMED NOT COUNTABLE.

-  ALL AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD EXIST UNDER 1995 AMENDMENTS
-  ALL AREAS ZONED M2 OR M3 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD EXIST UNDER 1995 AMENDMENTS
-  ALL AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD EXIST UNDER 1995 AMENDMENTS
-  SITES IDENTIFIED BY CITY AS PERMISSIBLE, BUT "ENCUMBERED" (AND THEREFORE NOT INCLUDED BY CITY). "ENCUMBERED" SITES INCLUDE AIRPORTS, UTILITIES, FUEL TANK FARMS, TRANSPORTATION RIGHTS-OF-WAY, LARGE MUNICIPAL FACILITIES, CERTAIN LARGE PARCELS OF PUBLICLY OWNED LAND, AND AREAS CHARACTERIZED BY WETLANDS
-  AREAS LEGALLY PERMISSIBLE FOR ADULT USES IN 1995 WHICH THE CITY'S 1995 MAP SHOWED AS SUBJECT TO PROPOSED FUTURE ZONE CHANGES RENDERING THOSE AREAS IMPERMISSIBLE FOR ADULT USES (NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)

SOURCE OF DATA: DEPARTMENT OF CITY PLANNING, MAP#90514 (9/18/95)
BASE MAP: DEPARTMENT OF CITY PLANNING, TAX BLOCK BASE MAP FILES, RELEASE 98A2 (6/98)



BERZAK ASSOCIATES ARCHITECTS, P.C. SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES
CONSEQUENTIAL OR ACTUAL, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS MAP
NOVEMBER 14, 2018

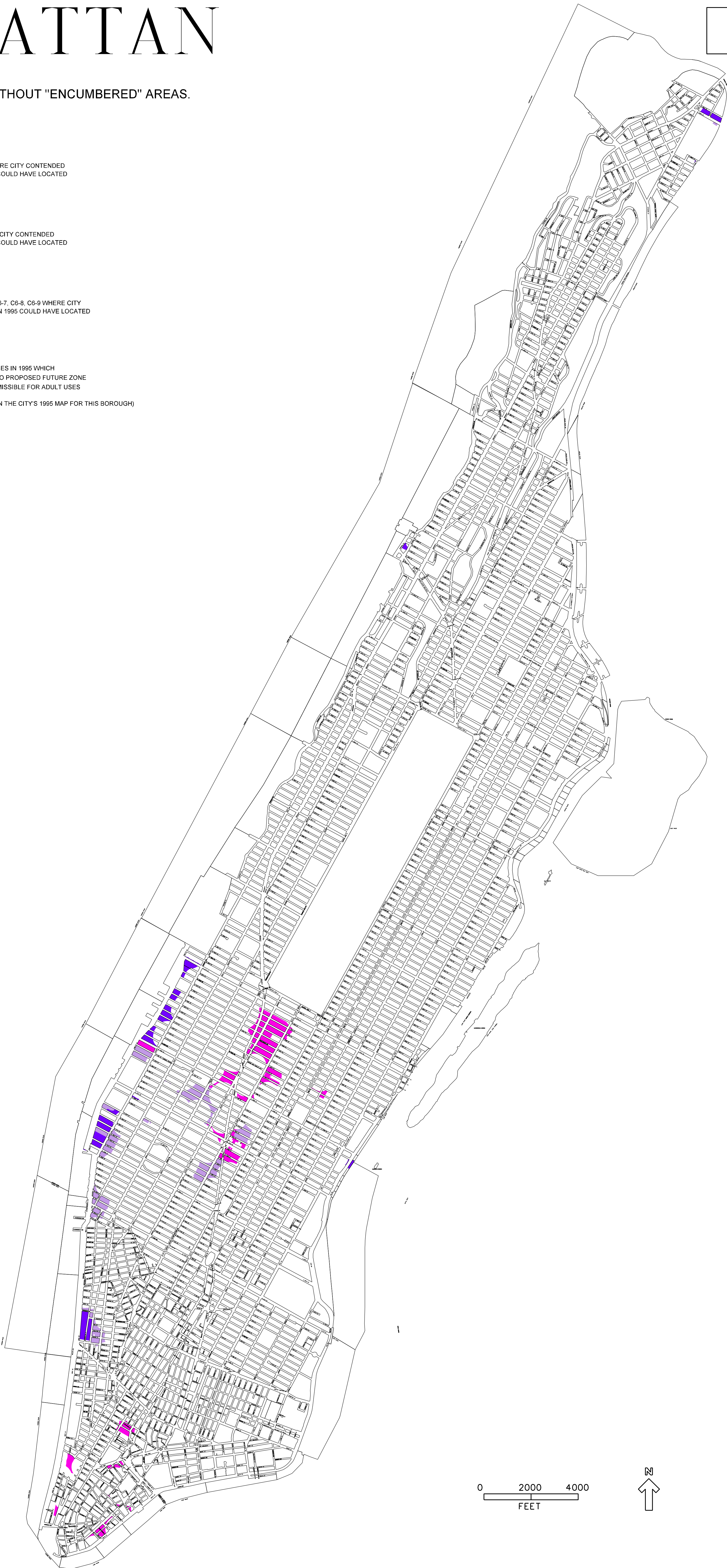
BERZAK
associates architects pc
110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
www.berzakarchitects.com

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REPRODUCES MAP A, BUT WITHOUT "ENCUMBERED" AREAS.

EXHIBIT 1 - B

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY CONTEDED ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- AREAS LEGALLY PERMISSIBLE FOR ADULT USES IN 1995 WHICH THE CITY'S 1995 MAP SHOWED AS SUBJECT TO PROPOSED FUTURE ZONE CHANGES RENDERING THOSE AREAS IMPERMISSIBLE FOR ADULT USES
(NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)



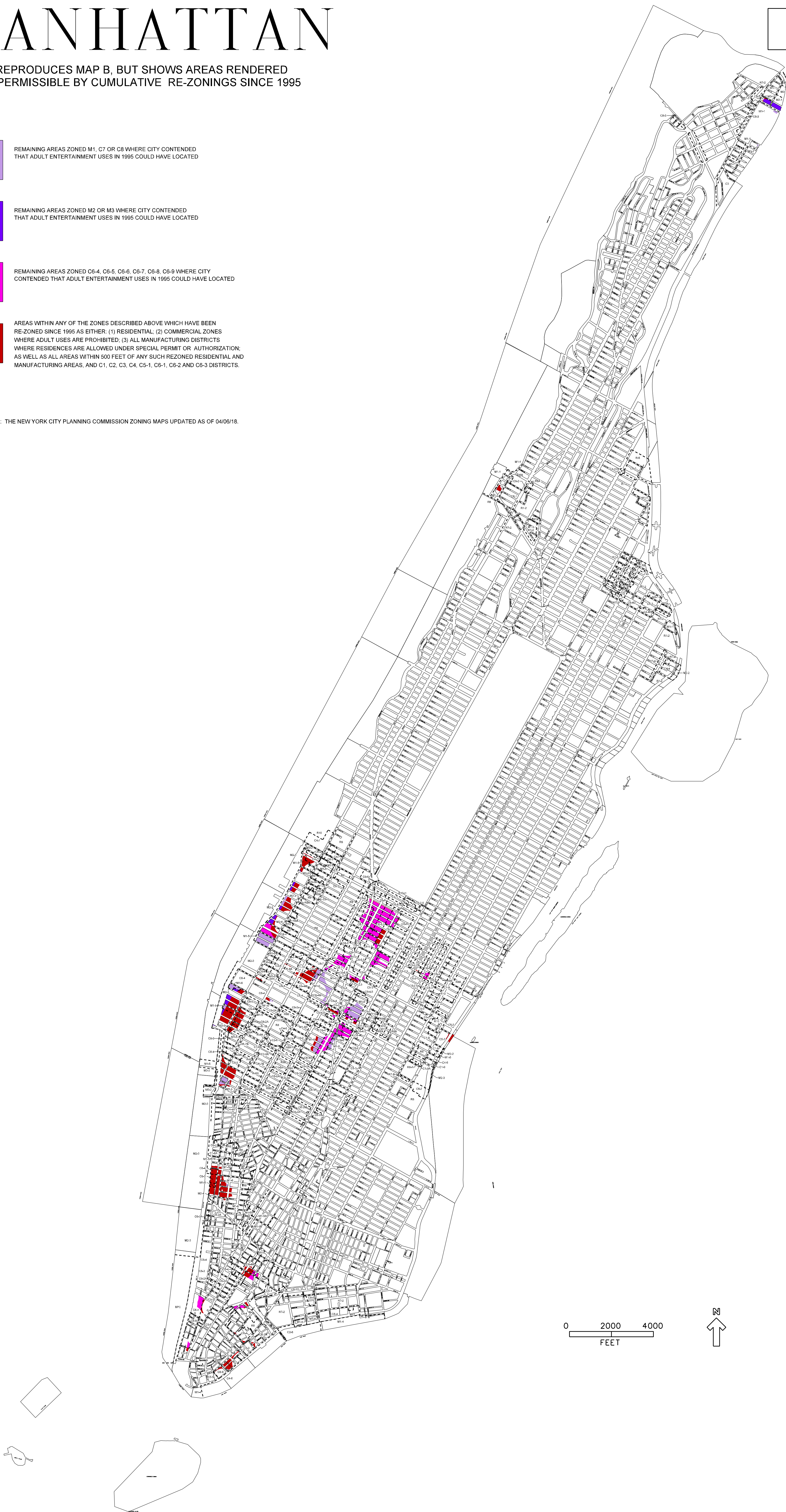
MANHATTAN

REPRODUCES MAP B, BUT SHOWS AREAS RENDERED
IMPERMISSIBLE BY CUMULATIVE RE-ZONINGS SINCE 1995

EXHIBIT 1 - C

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- AREAS WITHIN ANY OF THE ZONES DESCRIBED ABOVE WHICH HAVE BEEN RE-ZONED SINCE 1995 AS EITHER (1) RESIDENTIAL, (2) COMMERCIAL ZONES WHERE ADULT USES ARE PROHIBITED, (3) ALL MANUFACTURING DISTRICTS WHERE RESIDENCES ARE ALLOWED UNDER SPECIAL PERMIT OR AUTHORIZATION, AS WELL AS ALL AREAS WITHIN 500 FEET OF ANY SUCH REZONED RESIDENTIAL AND MANUFACTURING AREAS, AND C1, C2, C3, C4, C5-1, C6-1, C6-2 AND C6-3 DISTRICTS.

ZONING INFORMATION: THE NEW YORK CITY PLANNING COMMISSION ZONING MAPS UPDATED AS OF 04/06/18.



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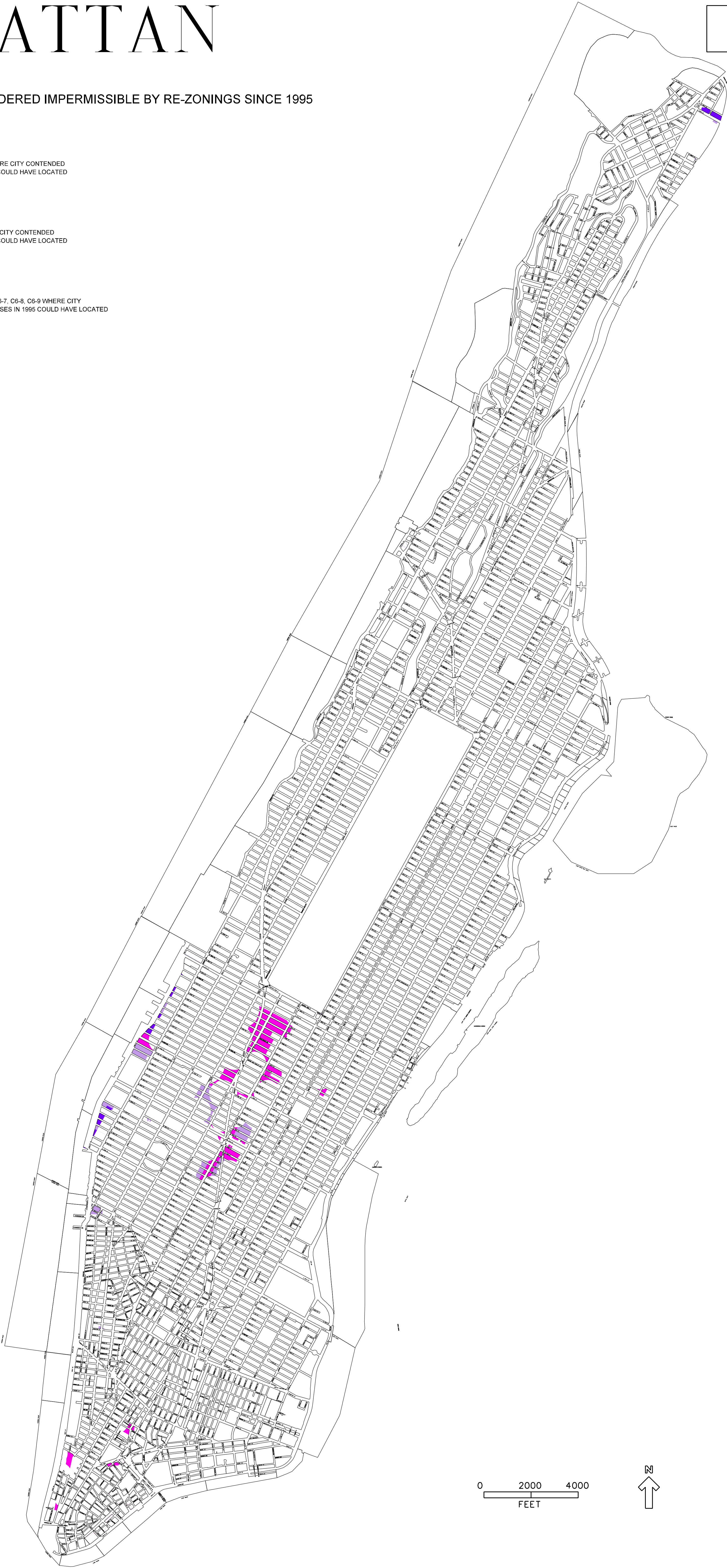
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110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
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EXHIBIT 1 - D

REPRODUCES MAP C, BUT WITHOUT AREAS RENDERED IMPERMISSIBLE BY RE-ZONINGS SINCE 1995

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED



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associates architects pc
110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
www.berzakarchitects.com

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REPRODUCES MAP D, BUT SHOWS IDENTITY AND LOCATION OF KNOWN SCHOOLS
AND HOUSES OF WORSHIP (INCLUDING HOSPITALS WITH RELIGIOUS SERVICE)
AFFECTING PERMISSIBLE AREAS AND 500 FOOT BUFFERS

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY
CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- CURRENTLY KNOWN HOUSES OF WORSHIP, SCHOOLS
WITHIN OR NEAR AREAS WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- CURRENTLY KNOWN HOSPITALS, THAT ARE WITHIN OR NEAR AREAS
WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES
IN 1995 COULD HAVE LOCATED
- BUFFER AREAS WITHIN 500 FEET OF CURRENTLY KNOWN HOSPITALS,
HOUSES OF WORSHIP AND SCHOOLS THAT ARE WITHIN OR
NEAR AREAS WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT
USES IN 1995 COULD HAVE LOCATED

SCHOOL AND HOUSE OF WORSHIP SITES HAS BEEN CONFIRMED AS OF 06/12/18 BY EITHER AN ON SITE PERSONAL INSPECTION OR PUBLIC RECORD
BY BERZAK ASSOCIATES ARCHITECTS P.C.

HOSPITAL SITES HAS BEEN CONFIRMED AS OF 10/17/18 BY EITHER AN ON SITE PERSONAL INSPECTION OR PUBLIC RECORD
BY BERZAK ASSOCIATES ARCHITECTS P.C.

SCHOOLS

- 1LITTLE RED SCHOOL HOUSE AND ELISABETH IRWIN HIGH SCHOOL (PreK-12) -
CHARLTON STREET BETWEEN VARICK STREET AND SIXTH AVENUE
- 2WASHINGTON IRVING H.S. - EAST 17TH STREET
BETWEEN IRVING PLACE AND THIRD AVENUE
- 3JACQUELINE KENNEDY ONASSIS HIGH SCHOOL - WEST 46TH STREET
BETWEEN SIXTH AND SEVENTH AVENUE
- 4PARK WEST HIGH SCHOOL - WEST 50TH
STREET BETWEEN TENTH AND ELEVENTH AVENUE
- 5ROBERTO CLEMENTE PUBLIC SCHOOL P.S. #195 - 625 WEST
133RD STREET BETWEEN BROADWAY AND TWELFTH AVENUE
- 6HIGH SCHOOL 560 CITY-AS-SCHOOL - 16 CLARKSON STREET
- 7NY CITY CENTER (DANCE SCHOOL K-12) - 131 WEST 55TH STREET - TO BE VERIFIED
- 8SATELLITE ACADEMY HIGH SCHOOL
120 WEST 30TH STREET
- 9REPERTORY COMPANY HIGH SCHOOL FOR
THEATRE ARTS - 123 WEST 43RD STREET
- 10BRIGHT HORIZONS CHILDCARE CENTER - 200 LIBERTY STREET
- 11MANHATTAN NURSERY SCHOOL - 38 WEST 32ND STREET
- 12STAR AMERICA PRESCHOOL
780 8TH AVENUE
- 13MARVEL INTERNATIONAL PRESCHOOL NEW YORK - 28 EAST 35TH STREET
- 14UNITED STATES GOVERNMENT- FEDKIDS CHILDCARE CENTER
26 FEDERAL PLAZA
- 15BRIGHT HORIZONS PRESCHOOL - 4 TIMES SQUARE
- 16IYV LEAGUE EARLY LEARNING ACADEMY
776 6TH AVENUE
- 17BRIGHT HORIZONS @ LEHMAN BROTHERS
745 SEVENTH AVENUE
- 18THE CHILDREN'S CENTER @ TIME WARNER
1271 AVENUE OF AMERICAS
- 19ST. THOMAS CHOIR SCHOOL - 202 WEST 58TH STREET
- 20WEST VILLAGE NURSERY SCHOOL
73 HORATIO STREET
- 21CITY KNOLL MIDDLE SCHOOL 425 WEST 33RD STREET
- 22BRIGHT HORIZONS CHILDREN CENTER
200 WEST STREET
- 23FERREIRA FAMILY DAY CARE
541 WEST 49TH STREET
- 24BRIGHT HORIZONS CHILDREN CENTER
529A WEST 29TH STREET
- 25THE NEW YORK LEAGUE FOR EARLY LEARNING INC
460 WEST 34TH STREET
- 26PACE UNIVERSITY (HIGH SCHOOL PROGRAMS)
PACE PLAZA AND SPRUCE STREET
- 27SPRUCE STREET SCHOOL PS397
12 SPRUCE STREET
- 28THE SIXTH AVENUE ELEMENTARY SCHOOL PS340
590 6TH AVENUE
- 29NY KIDS CLUB - CHILD CARE/PRE SCHOOL
88 LEONARD STREET
- 30JOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE CITY OF NY
CHILD CARE / PRE SCHOOL - 538 WEST 55TH STREET
- 31BRIGHT HORIZONS CHILDREN CENTERS LLC
(CHILD CARE / PRE SCHOOL) 600 FIFTH AVENUE
- 32GRAMERCY SCHOOL - PRE-K
460 WEST 34TH STREET
- 33THE LEARNING EXPERIENCE CHILDCARE CENTER
28 WASHINGTON STREET

EXHIBIT 1 - E

HOUSES OF WORSHIP

- 1TRINITY CHURCH - 75 BROADWAY AT WALL STREET
- 2ST. PAUL'S P.E. CHAPEL & CEMETERY -
BROADWAY BETWEEN VESEY STREET AND FULTON STREET
- 3HILLSONG CHURCH - 311 WEST 34TH STREET
- 4ST. ANDREWS R.C. CHURCH - 20 CARDINAL HAYES PL.
BETWEEN ST ANDREWS PLAZA AND PEARL STREET
- 5ST. MARY'S CHURCH - 246 EAST 15TH STREET
BETWEEN SECOND AND THIRD AVENUE
- 6ST. VINCENT DE PAUL R.C. CHURCH - 125 WEST 23RD
STREET BETWEEN SIXTH AND SEVENTH AVENUE
- 7CONGREGATION EMUNATH ISRAEL - WEST 23RD STREET
BETWEEN SEVENTH AND EIGHTH AVENUE
- 8SERBIAN ORTHODOX CHURCH OF ST. SAVA - 13 WEST
25TH STREET BETWEEN BROADWAY AND SIXTH AVENUE
- 9CHURCH OF THE HOLY APOSTLES EPISCOPAL - NINTH
AVENUE BETWEEN WEST 26TH AND WEST 28TH STREET
- 10MARBLE COLLEGIATE REF. CHURCH - 270 FIFTH AVENUE
BETWEEN WEST 29TH AND WEST 30TH STREET
- 11ST. JOHN THE BAPTIST R.C. CHURCH - 213 WEST 30TH
STREET BETWEEN SEVENTH AND EIGHTH AVENUE
- 12ST. FRANCIS OF ASSISI R.C. CHURCH AND FRIARY, SCHOOL & MONASTERY -
137-143 WEST 31ST STREET BETWEEN 6TH AND 7TH AVENUE
- 13CHURCH OF THE INCARNATION EPISCOPAL AND THE LANDMARK
CHURCH OF MURRAY HILL OF THE INCARNATION EPISCOPAL -
EAST 35TH STREET BETWEEN PARK AND MADISON AVENUE
- 14COMMUNITY CHURCH OF NEW YORK & SCHOOL HOUSE AND
METROPOLITAN SYNAGOGUE OF NY -
40 EAST 35TH STREET BETWEEN PARK AND MADISON AVENUE
- 15HOLY INNOCENTS RECTORY CHURCH - 128-128 WEST 37TH
STREET BETWEEN 7TH AVENUE AND BROADWAY
- 16METRO BAPTIST CHURCH/SCHOOL - 408 WEST 40TH
STREET BETWEEN NINTH AND DYER AVENUE
- 17REMNANT WESTSIDE CHURCH - 28 WEST 28TH STREET
- 18CHURCH OF THE COVENANT & PARISH HOUSE - 310
EAST 42ND STREET BETWEEN FIRST AND SECOND AVENUE
- 19HOLY CROSS CHURCH - 329 WEST 42ND STREET
- 20REMNANT WESTSIDE CHURCH - 17 LEXINGTON AV
- 21CHURCH OF ST. MARY THE VIRGIN/CLERGY HOUSE/
MISSION HOUSE - WEST 46TH STREET - WEST 46TH STREET
BETWEEN SIXTH AVENUE AND SEVENTH AVENUE
- 22CHURCH OF SCIENTOLOGY - WEST 46TH
STREET BETWEEN SEVENTH AND EIGHTH AVENUE
- 23ST. MALACHY'S R.C. CHURCH/CHAPEL/RECTORY - 239-241 WEST
49TH STREET BETWEEN BROADWAY AND EIGHTH AVENUE
- 24CROATION CHURCH OF STS. CYRIL AND METHODIUS
502 WEST 41ST STREET
- 25ST. BARTHOLOMEWS' CHURCH - 321 PARK AVE. AT
51ST STREET AND LEXINGTON AVENUE
- 26TIMES SQUARE CHURCH - 237 WEST 51ST STREET
BETWEEN BROADWAY AND EIGHTH AVENUE
- 27CALVARY BAPTIST CHURCH - 123 WEST 57TH STREET
BETWEEN SIXTH AND SEVENTH AVENUE @ HOTEL SALISBURY
- 28MANHATTAN BIBLE CHURCH - WEST 205TH STREET
BETWEEN NINTH AND TENTH AVENUE
- 29MASJID AWLIYA OF ALLAH SUNNI MOSQUE - 327 WEST 36TH STREET
- 30ST. PETER'S R.C. CHURCH - 16-22 BARCLAY STREET
- 31WALL STREET SYNAGOGUE - 47 BECKMAN STREET
- 32RABBINICAL COUNCIL OF AMERICA - 301 7TH AVENUE
- 33IN2 CHURCH - 401 7TH AVENUE
- 34IN2 CHURCH - 39 WEST 32ND STREET
- 35CRENSHAW CHRISTIAN CENTER - 481 8TH AVENUE
- 36CRENSHAW CHRISTIAN CENTER - 470 7TH AVENUE
- 37SWEDISH SEAMENS CHURCH - 5 EAST 48TH STREET
- 38CHURCH OF THE TRANSFIGURATION - 1 EAST 29TH STREET
- 39GARMENT CENTER CONGREGATION SYNAGOGUE - 1384 BROADWAY
- 40BEIT SIMCHAT TORAH CONGREGATION - 130 WEST 30TH STREET
- 41ST. LUKE'S LUTHERAN CHURCH - 308 WEST 46TH STREET
- 42ST. GEORGE GREEK CHURCH - 307 WEST 54TH STREET
- 43CHRIST CHURCH NYC - 75 ROCKEFELLER PLAZA
- 44ST. RAPHAEL'S CHURCH - 502-510 WEST 41ST STREET
- 45MUSLIM CENTER OF MANHATTAN INC
4 WEST 43RD STREET
- 46ST. THOMAS EPISCOPAL CHURCH - 1 WEST 53RD STREET
- 475TH AVENUE PRESBYTERIAN CHURCH - 7 WEST 55TH STREET
- 48THE KABBALAH CENTRE - 155 EAST 48TH STREET
- 49RADIO CITY SYNAGOGUE - 30 WEST 47TH STREET
- 50MOSQUE - 38 WEST 38TH STREET
- 51CONGREGATION BETH ISRAEL - 347 WEST 34TH STREET
- 52ADATH ISRAEL OF NEW YORK SYNAGOGUE - 201 EAST BROADWAY
- 53LUBAVITCH CHABAD MIDTOWN CENTER - 509 5TH AVENUE
- 54THE ACTOR'S TEMPLE SYNAGOGUE / THEATER
339 WEST 47TH STREET
- 55MILLINERY CENTRE SYNAGOGUE - 1025 6TH AVENUE
- 56HARVEST NEW YORK CHURCH - 336 WEST 37TH STREET, SUITE 335
- 57TRIBECA SYNAGOGUE - 49 WHITE STREET
- 58LIFE MINISTRY BAPTIST CHURCH - 519 EIGHT AVENUE
- 59SACRED LIGHT FELLOWSHIP - 300 WEST 43RD
- 60AQUARIAN FOUNDATION CHURCH - 132 WEST 36TH STREET
- 61ST NICOLAS NATIONAL SHRINE AT WORLD TRADE CENTER
130 LIBERTY STREET
- 62REDEEMER CITY TO CITY PLACE OF WORSHIP
1156 AVENUE OF AMERICAS
- 63EAST END TEMPLE - 245 EAST 17TH STREET
- 64AR-REHMAN FOUNDATION INC, MASJID AR-REHMAN
15 WEST 28TH STREET
- 65LIVING WORD COMMUNITY CHURCH INC - 325 BROADWAY
- 66WORSHIP HALL - 19 WEST 36TH STREET
- 67C3 CHURCH MANHATTAN - 242 WEST 41ST STREET

HOSPITALS

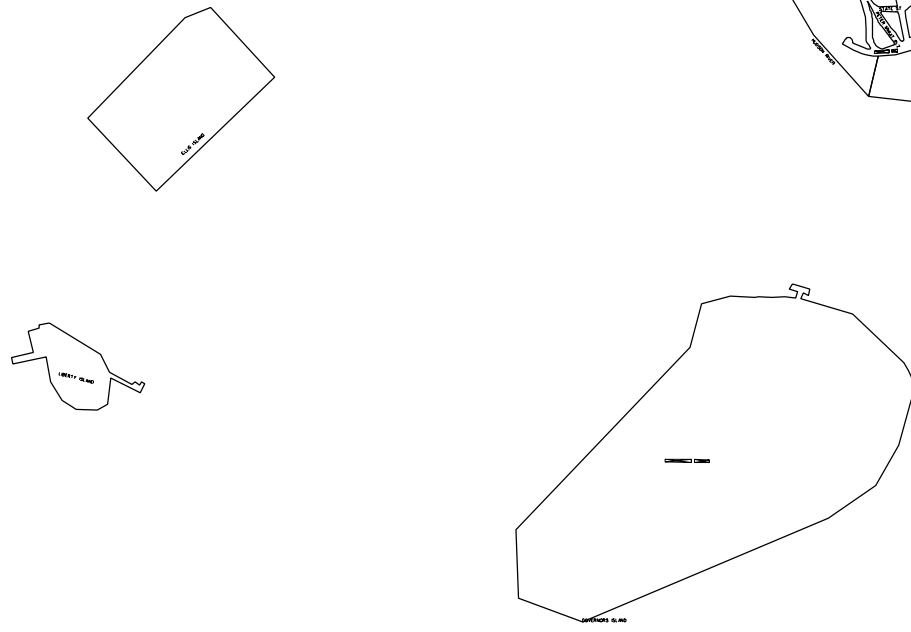
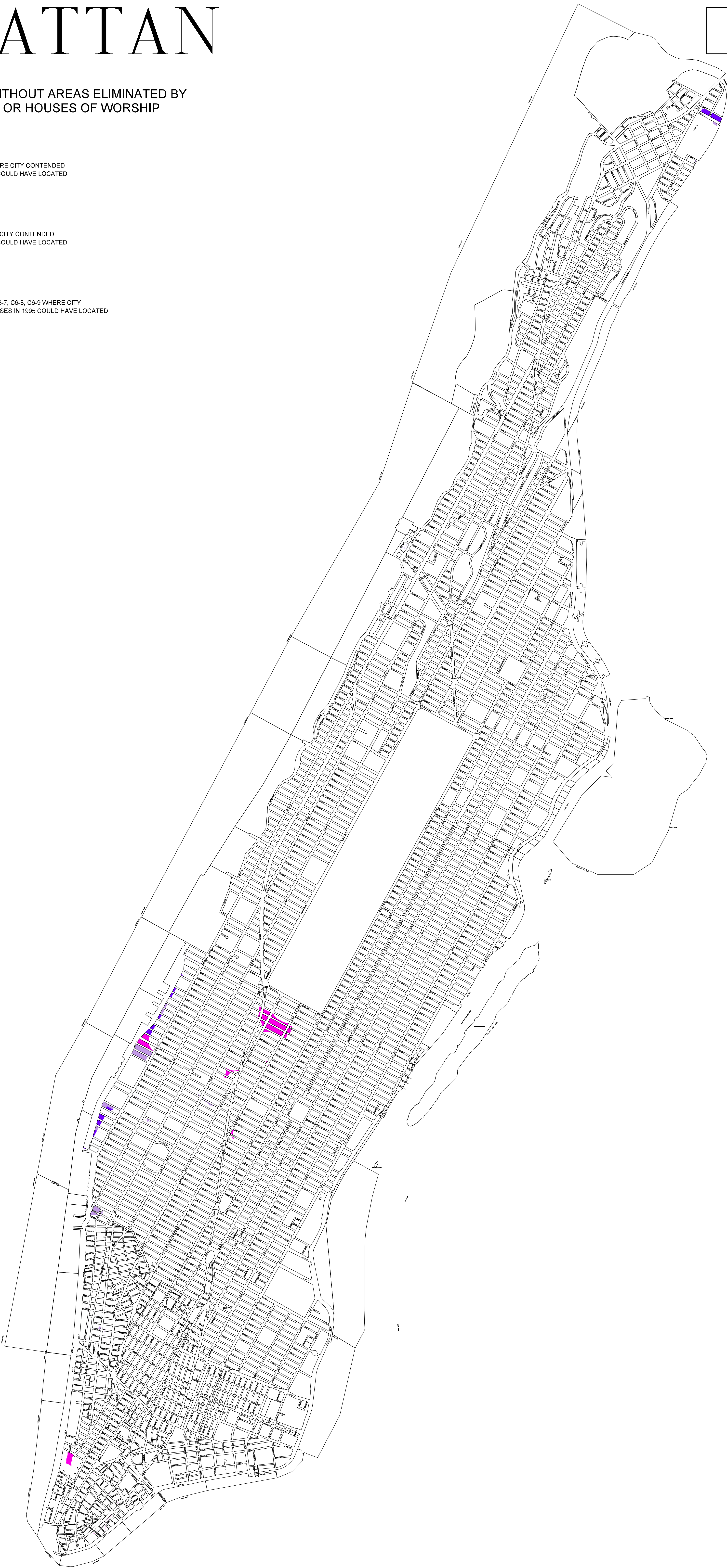
- 1MOUNT SINAI WEST / ST. LUKE'S ROOSEVELT HOSPITAL
1000 10TH AV
- 2GOVERNUR HOSPITAL
227 MADISON ST
- 3NYU- TISH MEDICAL CENTER
560 1ST AVENUE
- 4BETH ISRAEL / MOUNT SINAI MEDICAL CENTER
10 UNION SQUARE EAST
- 5BELLEVUE HOSPITAL CENTER
462 1ST AVENUE
- 6VA NY HARBOR HEALTH CARE SYSTEM
423 EAST 23RD ST

MANHATTAN

EXHIBIT 1 - F

REPRODUCES MAP E, BUT WITHOUT AREAS ELIMINATED BY
PROXIMITY TO SCHOOLS OR HOUSES OF WORSHIP

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY
CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED



0 2000 4000
FEET



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associates architects pc
110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
www.berzakarchitects.com

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EXHIBIT 1 - G

REPRODUCES MAP F, BUT SHOWS IDENTITY AND LOCATION OF
KNOWN PUBLICLY-OWNED LAND AND PRIVATELY-OWNED LAND
NOT SUITABLE FOR ANY NEW GENERIC COMMERCIAL USE

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY
CONTEDEDTHAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- CURRENTLY KNOWN PUBLICLY-OWNED OR PRIVATELY-OWNED
RESTRICTED AREAS WITHIN AREAS WHERE CITY CONTEDED THAT
ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED

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PUBLICLY-OWNED OR PRIVATELY-OWNED DEDICATED PARCELS UNAVAILABLE FOR ANY COMMERCIAL USE

- 1

UNITED PARCEL SERVICE GARAGE - WEST HOUSTON STREET
BETWEEN WASHINGTON AND GREENWICH STREET
- 2

PACE UNIVERSITY BOOK STORE - PARK ROW, ACROSS
FROM CITY HALL
- 3

THE CONSULATE GENERAL OF THE PEOPLE'S REPUBLIC
OF CHINA - 12TH AVENUE AND 42ND STREET
- 4

US GENERAL SERVICES ADMINISTRATION - FEDERAL PLAZA -
LAFAYETTE STREET BETWEEN WORTH AND DUANE STREET
- 5

NYC DEPARTMENT OF SBS SIGNAL TOWERS AND PLATFORM ON PILES - NEXT TO
THE FRANKLIN D. ROOSEVELT DRIVE FROM EAST 38TH TO EAST 41ST STREET
- 6

NYC DEPARTMENT OF SANITATION (CITY OWNED) -
WEST 215TH STREET AND NINTH AVENUE
- 7

DEPARTMENT OF SANITATION, GARAGE
& INCINERATOR (CITY OWNED) - WEST 215TH STREET BETWEEN
NINTH AND TENTH AVENUE
- 8

NEW YORK CITY TRANSIT AUTHORITY SUBWAY
REPAIR FACILITY (CITY OWNED) - TENTH AVENUE BETWEEN WEST 20TH
AND WEST 215TH STREET
- 9

FDNY FIREHOUSE ENGINE #34 / LADDER #21 (CITY OWNED) - WEST 38TH
BETWEEN NINTH AND TENTH AVENUE STREET
- 10

MTA BUS DEPOT - 40TH TO 41ST STREET BETWEEN
ELEVENTH AND TWELFTH AVENUE
- 11

POST OFFICE - WEST 38TH STREET BETWEEN SEVENTH
AND EIGHTH AVENUE
- 12

D O T T. FACILITY #606 - 30TH STREET BETWEEN ELEVENTH
AND TWELFTH AVENUE
- 13

NYC PARK DEPARTMENT CHELSEA WATERSIDE PARK - WEST 22ND TO WEST 24TH
BETWEEN ELEVENTH AND TWELFTH AVENUE STREET
- 14

NYS DEPARTMENT OF TRANSPORTATION
PARK (HUDSON RIVER PARK TRUST) -15TH STREET
BETWEEN TENTH AND ELEVENTH AVENUE
- 15

BROOKLYN BRIDGE RAMP - CENTRE STREET AND
FRANKFORT STREET
- 16

HUDSON RIVER PARK (PIER 62 SKATEPARK)
- 17

PORT OF NY AUTHORITY ENTRANCE TO BROOKLYN
TUNNEL (CITY OWNED) - BATTERY PLACE BETWEEN WESTERN UNION
INT'L PLAZA AND GREENWICH STREET
- 18

BUILDING FOR THE DEPARTMENT OF HEALTH, HOSPITAL &
NYC SANITATION DEPT (CITY OWNED) - WORTH STREET BETWEEN
LAFAYETTE AND CENTRE STREET
- 19

NEW YORK CITY SANITATION DEPARTMENT, VETERAN AFFAIRS,
CRIMINAL CT - SUMMONS, AIDS POLICY COORDINATOR,
ALTERNATIVE DETENTION - ATD, & HEALTH HIV AIDS PROGRAM -
346 BROADWAY
- 20

NYC TRANSIT SUBWAY STATION (CITY OWNED) - WEST 53RD
STREET BETWEEN SIXTH AND SEVENTH AVENUE
- 21

U.S. POSTAL FACILITY VEHICLES MAINTENANCE - WEST 24TH
STREET BETWEEN ELEVENTH AND TWELFTH AVENUE
- 22

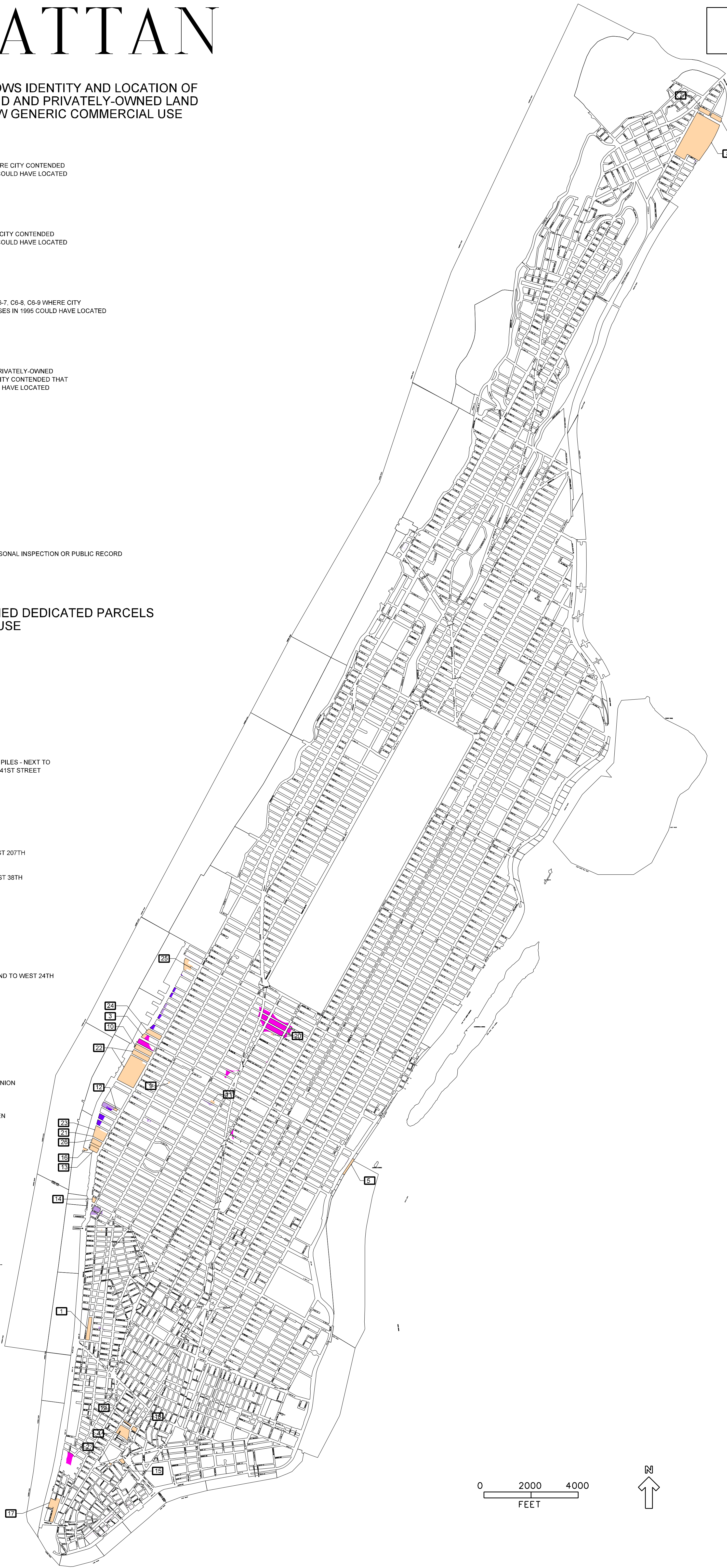
JAVITS CONVENTION CENTER - ELEVENTH AVENUE
BETWEEN WEST 34TH AND WEST 39TH STREET
PLUS EXPANSION ON WEST 39TH AND WEST 40TH STREET
- 23

NYC DEPARTMENT OF SANITATION REPAIR SHOP (CITY OWNED) -
WEST 26TH STREET BETWEEN 12TH AVENUE AND 11TH AVENUE
- 24

UPS CUSTOMER CENTER NEW YORK - 11TH AVENUE
BETWEEN WEST 43RD STREET AND WEST 44TH STREET
- 25

NYC DEPARTMENT OF SANITATION (CITY OWNED) -
WEST 57TH STREET BETWEEN 12TH AVENUE AND 11TH AVENUE
- 26

NYS DEPARTMENT OF TRANSPORTATION
OUTDOOR RECREATION - 11 AVENUE
BETWEEN WEST 23RD STREET AND WEST 24TH STREET



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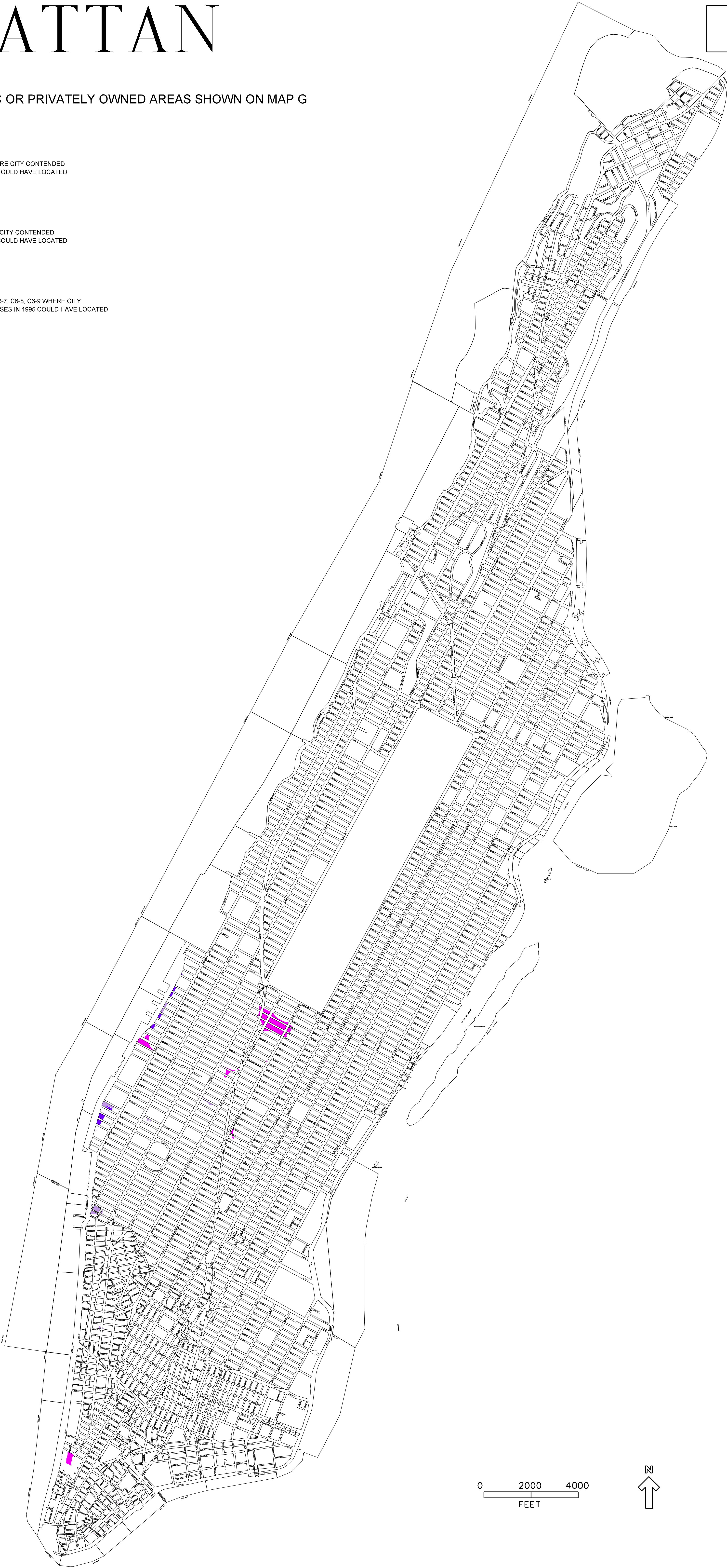
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associates architects pc
110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
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EXHIBIT 1 - H

REPRODUCES MAP G, BUT WITHOUT THE PUBLIC OR PRIVATELY OWNED AREAS SHOWN ON MAP G

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED



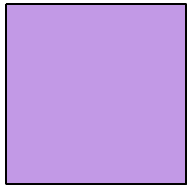
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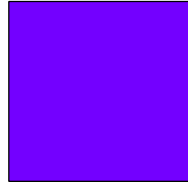
MANHATTAN

EXHIBIT 1 - I

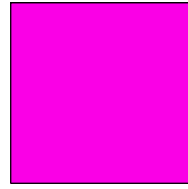
REPRODUCES MAP H, BUT SHOWS LOCATION OF ALL KNOWN "100%" ADULT ENTERTAINMENT SITES AND 500 FEET BUFFER ZONES AROUND THOSE SITES.



REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEMDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED



REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEMDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED



REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY CONTEMDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED

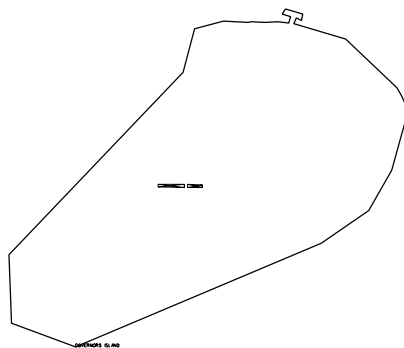
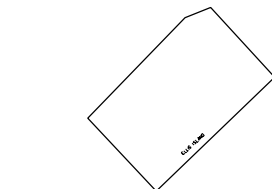
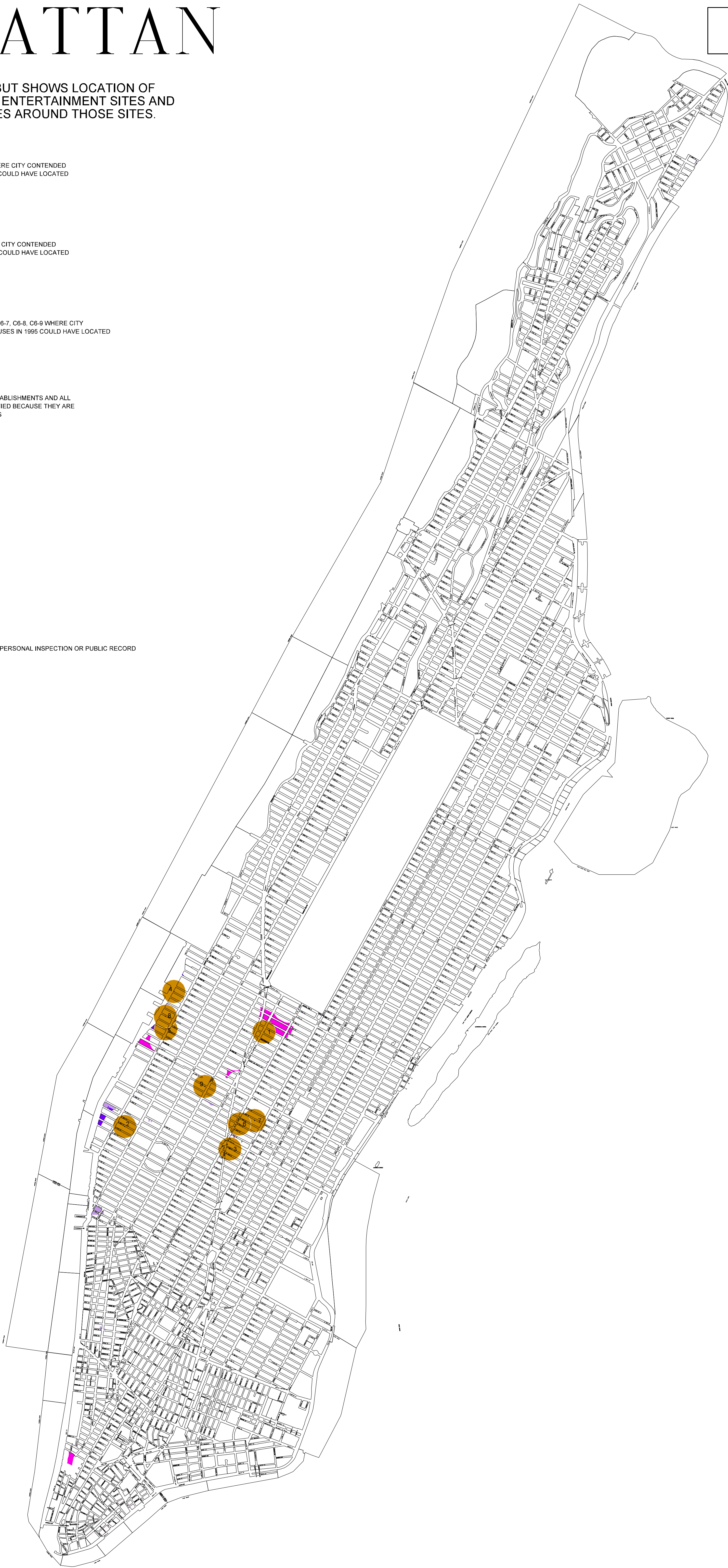


EXISTING 100% ADULT ENTERTAINMENT ESTABLISHMENTS AND ALL OTHERWISE PERMISSIBLE AREAS DISQUALIFIED BECAUSE THEY ARE WITHIN 500 FEET OF SUCH ESTABLISHMENTS

EXISTING 100% ADULT ENTERTAINMENT ESTABLISHMENTS

1. FLASHDANCERS NYC - 1674 BROADWAY
2. SCORES NEW YORK - 536 WEST 28TH STREET
3. RICKS CABARET - 50 WEST 33RD STREET
4. LARRY FLYNT'S HUSTLER CLUB - 641 WEST 51ST STREET
5. PENTHOUSE EXECUTIVE CLUB - 603 WEST 45TH STREET
6. VIVID CABARET - 61 WEST 37TH STREET
7. SAPPHIRE NEW YORK - 20 WEST 39TH STREET
8. ESQUIRE CLUB NYC - 622 WEST 47TH STREET
9. 300 VIDEO CENTER - 300 WEST 40TH STREET

EACH SITE HAS BEEN CONFIRMED AS OF 06/13/18 BY EITHER AN ON SITE PERSONAL INSPECTION OR PUBLIC RECORD BY BERZAK ASSOCIATES ARCHITECTS P.C.



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FEET



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NOVEMBER 14, 2018

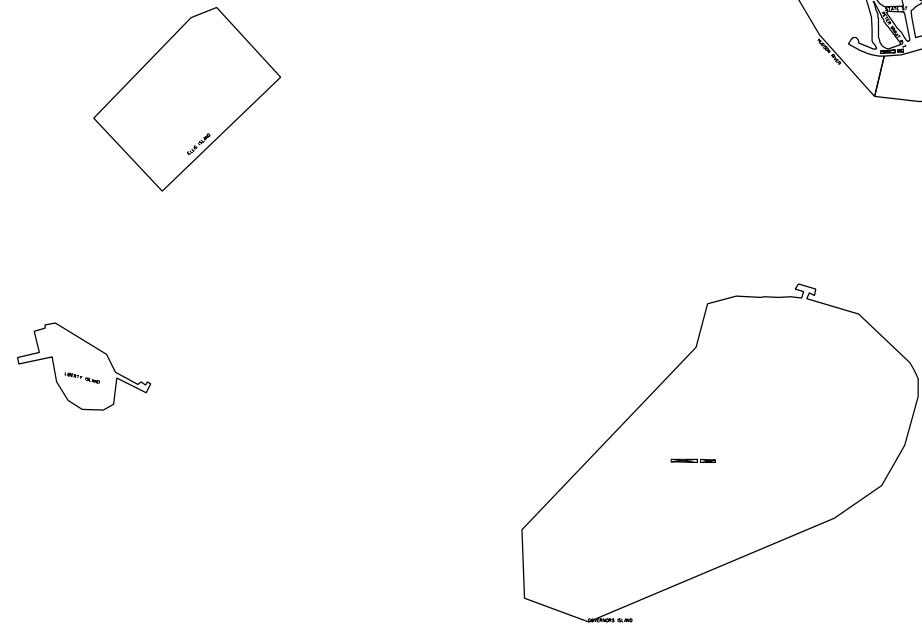
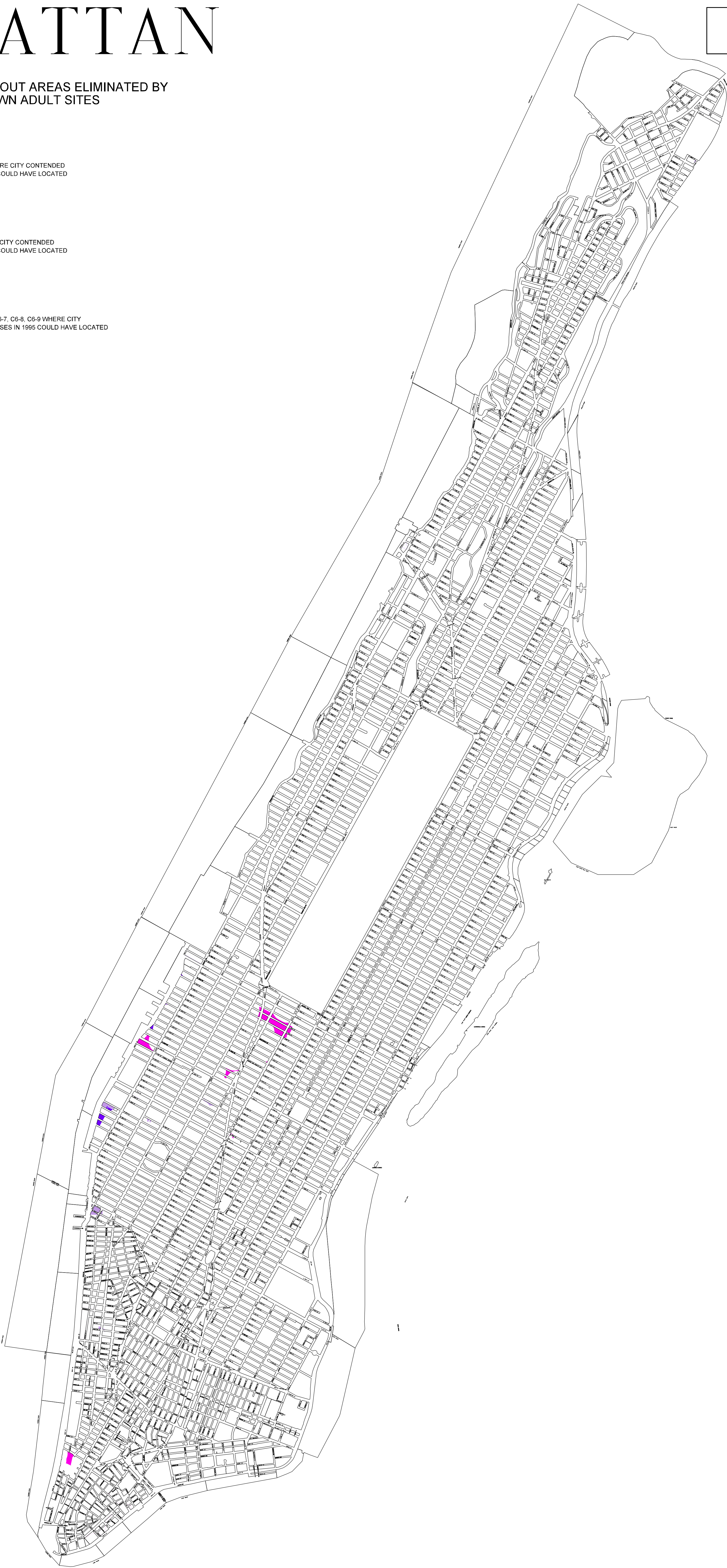
BERZAK
associates architects pc
110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
www.berzakarchitects.com

MANHATTAN

REPRODUCES MAP I, BUT WITHOUT AREAS ELIMINATED BY
PROXIMITY TO KNOWN ADULT SITES

EXHIBIT 1 - J

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY
CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED



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FEET



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associates architects pc
110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
www.berzakarchitects.com

MANHATTAN

REPRODUCES MAP J AND SHOWS THE AREAS WHICH COULD
SIMULTANEOUSLY BE OCCUPIED BY NEW ADULT LIVE ENTERTAINMENT USES

EXHIBIT 1 - K

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTENDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTENDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY
CONTENDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- PROPOSED 100% ADULT ENTERTAINMENT ESTABLISHMENTS WITH CIRCLE
DESCRIBING ALL OTHERWISE PERMISSIBLE AREAS DISQUALIFIED BECAUSE
THEY ARE WITHIN 500 FEET OF SUCH ESTABLISHMENTS

MAXIMUM NUMBER OF PROPOSED ADULT LIVE ENTERTAINMENT SITES: 16



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associates architects pc
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t:212.505.3350, f:212.505.3734
www.berzakarchitects.com